

# BRIDGES TO THE CUBAN PEOPLE ACT OF 2001, S. 1017

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## HEARING BEFORE THE SUBCOMMITTEE ON WESTERN HEMISPHERE, PEACE CORPS AND NARCOTICS AFFAIRS OF THE COMMITTEE ON FOREIGN RELATIONS UNITED STATES SENATE ONE HUNDRED SEVENTH CONGRESS SECOND SESSION

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JUNE 19, 2002  
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## **BRIDGES TO THE CUBAN PEOPLE ACT OF 2001, S.1017**

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**WEDNESDAY, JUNE 19, 2002**

U.S. SENATE,  
SUBCOMMITTEE ON WESTERN HEMISPHERE,  
PEACE CORPS AND NARCOTICS AFFAIRS,  
COMMITTEE ON FOREIGN RELATIONS,  
*Washington, DC.*

The committee met, pursuant to notice, at 2:45 p.m., in room SD-419, Dirksen Senate Office Building, Hon. Christopher J. Dodd (chairman of the subcommittee), presiding.

Present: Senators Dodd, Bill Nelson, Chafee and Allen.

Senator DODD. The hearing will come to order. My apologies to our witnesses. We had a vote that delayed us getting started here.

I want to thank my colleagues for coming. I want to thank the ranking member of this subcommittee, Senator Chafee, who has a strong interest in the Americas, and in a very brief amount of time has become a tremendous asset to this committee and a tremendous asset to the subject matter and discussion of the events in the Americas, as well as my new friend from Virginia, former Governor and now a colleague who has showed a wonderful interest in the Americas as well. We welcome them immensely.

Senator Nelson will be here with us shortly. And we welcome you, Bernie; nice to have you back before the subcommittee. We've been friends for many years and I have a high regard and respect for Bernie Aronson. And I am anxious to hear your thoughts in a few minutes.

Let me share if I can some opening comments. I will turn to my colleague, Senator Chafee after that for any opening comments he may have. Senator Allen, if you would like to make some comments before we go that way and we'll hear from our witnesses and move along. But I'm very grateful to all of you for being here.

Today the Subcommittee on Western Hemisphere, Peace Corps and Narcotics Affairs continues its series of hearings on U.S. policy in the Western Hemisphere. And subject to today's hearing is the U.S.-Cuban policy and how that policy might be reshaped to better serve the interests of the United States.

It is very clear that there is a growing support in the U.S. Congress for making some changes in U.S. policy. Since 1999, numerous votes have occurred in support of lifting restrictions on travel to Cuba and on the sale of food and medicines.

Each time the House leadership has stepped in to thwart the will of the Congress by stripping the provisions in the various bills in

conference, in some cases over the objection of the conferees themselves.

Despite the House leadership's best efforts, they have backed off efforts to remove a provision of the fiscal year 2001 Agricultural appropriations bill that contained language authorizing the issuance of 1-year licenses for the sale of food and medicines to Cuba but were successful in placing restrictions on the financing of those sales.

Whatever the shortcomings of the provision that passed, it was an important first step, I believe, that hopefully has broken the congressional stranglehold on U.S. policy.

So what are the next steps. Last year in an effort to build on congressional actions on the food and medicine issues and to move forward to bridge the divide between the United States and Cuba, I introduced legislation that would comprehensively modify existing U.S.-Cuban policy.

Each piece of the proposal is intended to try and foster some greater understanding between the American and Cuban peoples themselves and show by example what it means to live in a free society. This legislation was the focus of today's hearing.

The bill I think is amply titled the "Bridges to the Cuban People Act." I have been joined in this bill by 26 of our colleagues including Senator Chafee, the ranking member of this subcommittee. I am very grateful to Senator Chafee and other members of the committee who have joined us here this afternoon to talk about this subject matter, and to those who have joined with us in co-sponsoring this bill to restore some of what we believe is common sense policy toward Cuba, and to bring that policy to the line where the American people are on the subject.

Our bill as proposed would increase humanitarian trade between Cuba and the United States, support people-to-people contacts by providing scholarships and loosening travel restrictions. It would also allow Americans to benefit from the medical advances in Cuba, remove caps on the amounts of money that Cuban-Americans can send back to their loved ones, their families, on an annual basis, and enhance the President's flexibility to make further calibrations in U.S. policy as he might decide.

Let me tell you what it does not do. It does not eliminate its entirety of U.S. embargo against Cuba. And while I personally believe that such a profound change in our policy would greatly accelerate Cuba's peaceful transition to democracy, I know at this juncture that a number of our colleagues are not prepared to sign onto such a dramatic change in our policy.

Rather, this bill creates specific exceptions to the embargo that will among other things allow American farmers and businesses to sell food, medicine and agricultural equipment to Cuba without the burden of securing annual licenses, and will allow our farmers and businesses to use American banks and American financing to conduct these sales.

Both of these changes along with the lifting of shipping restrictions are designed to allow sales to move forward in a way that is less burdensome to American farmers and industry. We are fortunate to have with us this afternoon the former Assistant Secretary of State for the Western Hemisphere, Bernie Aronson, to share

with the committee his views on the legislation and on the U.S.-Cuba policy in general.

Bernie Aronson is extremely well-qualified to do so not only because of his previous government service but also because since 1998 he has been the co-chair of the Council on Foreign Relations Task Force on Cuba reviewing this issue and debating it with a broad cross-section of Cuban experts. And I thank you, Bernie, for being here this afternoon.

Much of the debate on U.S.-Cuban policy is centered around whether our policy is achieving its objective of bringing democracy to Cuba or whether it is needlessly causing suffering to the 11 million people living on the island of Cuba. Those are very important questions.

But the most important question in my opinion is whether it is serving the American people's interests. Is it really in our Nation's interest to deny the American people access to promising Cuban medical advances and data that could save American lives and improve the delivery of public health services, particularly in rural communities?

I do not believe that it is. That is why I have included in the bill language that modernizes our approach to Cuba's medical exports. Cuba is currently involved in the development of some medicines that are not available in the United States such as the meningitis B vaccine, certain kinds of anti-cancer vaccines and other products that literally could save American lives today, some of which we will hear about this afternoon from our other witnesses in panel two.

Our legislation would allow Cuba with the approval of the Secretary of Health and Human Services to export to the United States medicines for which there is a medical need in the United States, provided the medicine is not currently being manufactured in our own country. In this way, we can begin to build on the strong tradition of medical research in Cuba and to encourage the free exchange of ideas and experiments between scholars.

Several weeks ago we heard from the administration witnesses that testified that because Cuba has a highly sophisticated biomedical industry, it has the potential, let me repeat, the potential to produce biological products that may have dual-use capabilities. At no time during that hearing did these witnesses state that they had any evidence that Cuba has manufactured biological weapons. Much of what was said in both open and closed session was highly speculative.

By contrast today, we are fortunate to have with us a distinguished panel of medical and scientific experts who will speak knowledgeably about what Cuba's biomedical industry is doing. They will also discuss the implications of current prohibitions on cooperation in the biomedical sector, and the benefits that would accrue to the United States from closer collaboration between the United States and Cuban scientific and medical communities.

Our panelists, Dr. Ken Bridges who is the director of the Joint Center of Sickle Cell and Thalassemic Disorders at the Brigham and Women's Hospital in Boston, Massachusetts; Dr. Alan I. Leshner, chief executive officer of the American Association for the Advancement of Science, here in Washington, DC; Dr. Donald L.

Morton who is the medical director and surgeon-in-chief of the John Wayne Cancer Institute in Santa Monica, California; and Dr. Mark M. Rasenick who is the professor of physiology and biophysics, professor of psychiatry and director of biomedical neuroscience training programs at the University of Illinois Chicago, Chicago College of Medicine, Chicago, Illinois. And gentlemen, all of you, we thank you for being here. And we'll introduce you in a few minutes.

Another major focus of today's hearing which is also addressed in the bill is a matter that is adversely affecting the lives of average Americans, namely abridgments to their rights to travel.

Cuba does not pose a threat to individual Americans. It is time to permit our citizens to exercise their constitutional right to travel, in my view, to Cuba. No one seriously argues that we ban travel to Cuba out of concern for the safety of Americans who might visit the island nation.

Today Americans are free to travel to such countries as Iran, North Korea, founding members of President Bush's "axis of evil" club, I might add, they can travel as well to the Sudan, Burma, Syria, Afghanistan but not to Cuba, 90 miles off the coast of Florida.

This afternoon we will hear from Ms. Nancy Chang for the Center of Constitutional Rights about how these travel restrictions are making criminals of ordinary Americans, how our citizens are being intimidated by Customs and Treasury officials, simply because they have sought to visit Cuba.

Ironically, it is those Americans who respond truthfully to questions by Customs officials about their visits to Cuba who are the ones being subjected to pre-penalties and other forms of intimidation.

More than 400 individuals have recently been targeted by the Office of Foreign Asset Controls for enforcement action, that is civil penalties ranging from \$7,500 to \$17,500. I thought it was the Castro regime it was trying to punish, not American students, artists and Cuban-Americans visiting loved ones on the island of Cuba.

We Americans have a unique way of spreading our influence. It is by being ourselves. Look at the current visit to Cuba by former President Jimmy Carter. Although it was less than a week long, he was able to touch the lives of millions of Cubans.

He was able to bring news to them about what is happening inside their own country. That was remarkable. And so much more like that is possible in my view with further contacts. It has been through person-to-person and cultural exchanges that we have helped to shape the evolution of our hemisphere from one rule, predominantly by authoritarian and military regimes, to one where democracy is the rule.

Our current policy toward Cuba limits our ability, in my view, to spread our influence. It removes our most potent weapon in our effort to combat totalitarianism, and that is our own people. They are sometimes the best ambassadors of our Nation. They are the ones who can make a difference as they have in many, many occasions all across the globe.

And it has been possible to engage in the free exchange of ideas between Americans and Cubans is I think one of the best ways to



encourage democracy and to build the bridges between the American and Cuban people.

The bill before us would unleash America's goodwill ambassadors by removing restrictions on travel to Cuba. It is my hope that today's hearing will shed some light on the damage that our current policy is doing to U.S. interests and provoke some thought and debate on some alternative approaches to achieving our shared goals of seeing a peaceful and democratic Cuba, 90 miles from our shore.

We all agree that the present government is one we want to change. The question is how do you do that. How do you build the transitions to a new Cuba that will come. Again, I want to thank our witnesses today for being here. I look forward to their testimony and the questions in the period that will follow.

Now, let me turn to my colleague from Rhode Island for any opening statements he wants to make. And then I will ask my colleagues and hear any brief comments they would like to make, and then we will get to the witnesses.

Mr. Chafee.

Mr. CHAFEE. Thank you, very much Mr. Chairman, for holding this hearing on this important and beautiful piece of real estate, located as you said, just 90 miles from our own border. I was fortunate enough to visit Cuba in January. And as I've said before, you can feel the change in the air.

The reasons for this change probably involve a combination of the President softening as he gets into his 70s—as many human beings do—as well as the hard reality that the Soviet Union has broken up and no longer provide Cuba \$4½ billion of aid a year.

So they are having to open their borders. And you are seeing people from around the world in Havana. You are seeing Canadians, Swiss, Spaniards and other Europeans. There are also other North Americans and South Americans in Havana.

Cuba is changing. The United States must decide whether we are going to welcome these opening of doors or whether we are going to be reactionary and not do what's in our own best interest by taking advantage of the opportunities that are coming our way. So I look forward to hearing from today's witnesses.

Senator DODD. Very good. Senator Nelson, any opening comments you would like to make?

Senator NELSON. Mr. Chairman, I think because the winds of change are blowing in Cuba and that an examination of this issue in this hearing is a very constructive one, just as you were so kind to me a week ago in bringing to the attention of the full committee here my resolution of support for the Varela Project.

Here's a project that was not known too much outside of Cuba until President Carter spoke about it in his address to the Cuban people. And here are over 11,000 very courageous citizens that dared to put their name and address under the legal processes of the Cuban Constitution that says that if 10,000 petition the government, the issue goes to the National Assembly.

And this was a petition on the things that we take for granted here, that we want so desperately for Cuba to have: free and fair elections, the freeing of political prisoners, the opportunity for a free-market economy to operate instead of a state-controlled economy.

Those are examples of the freedoms that were articulated by these courageous 11,000 souls, only to see that the Castro government's response was to have a mass demonstration against that project. And that is just simply not constructive. And yet I'm grateful to you for having brought up that Varela Resolution so the U.S. Senate could go on record as we did, 87 to 0, to clearly state that we yearn for the freedoms.

So I think coming out of this hearing can be a lot of constructive comments. You know that my politics is a little bit different because I have a large Cuban-exiled community that has experienced this traumatic experience of so many of their loved ones having been jailed and tortured and then having to pick up roots and flee, often with nothing but the clothes on their back. And so I have my concerns about dealing with this government.

But nevertheless, the issues that you have put forth here are legitimate issues that we should discuss and come to some conclusions.

This legislation also removes restrictions with regard to vessels entering U.S. ports. And of course one of the things that I hope will come out in this discussion is particularly at this time of risk to our homeland, and given the fact that one of the points of vulnerability are our deep water ports, and Florida by the way has 14 of them, and the fact that Cuba is still listed as a state sponsor of terrorism, what are the thoughts that should come forth in the testimony on whether or not that increases the risk to our safety here at home.

So I look forward to this, Mr. Chairman, and thank you again for your leadership.

Senator DODD. Thank you. I want to commend my colleague from Florida for his resolution on the Varela Project. And I was happy to see to it that it was considered here and considered on the floor of the Senate and too co-sponsored in support of the resolution.

It is not inconsistent at all with the United States here. I think it is a common goal, common desire here to make sure people have the rights that they ought to have in a free society. And there may be some division over how best we can achieve these goals, but no one disagrees I hope over what our goals are. So I appreciate your comments.

With regard to the ships coming in, of course, it is common knowledge that we only inspect less than 2 percent of the vessels that come into our country. And certainly that needs to change dramatically. Just a fraction of these container vessels are examined.

So I would anticipate that any ships coming here would be subjected to the same kind of scrutiny we anticipate elsewhere. And I look forward to that.

Senator Allen.

Senator ALLEN. Thank you, Mr. Chairman. And thank you for continuing this discussion. I associate myself with the remarks of Senator Nelson and commend you for having this hearing. And clearly I think we all want to get to the same goal. The question is how do you get to that goal for the people of Cuba.

Senator Nelson deserves a lot of credit and so does the United States Senate for the unanimous vote standing by the side of others in support of the Varela Project. Now, what has been the re-

sponse to this? I am going to go to the Washington Post today, which most would not consider a Jeffersonian conservative editorial page, but——

Senator DODD. You keep on picking on that paper.

Senator ALLEN. I am not picking on the paper. I am going to vote for the paper with the free press. I will probably be blasted for using them as exhibit A in their articulation, and I quote, from today's paper, "When feeling threatened, Fidel Castro has a stock response. Order the Cuban people to participate in a mass demonstration. It is an old technique of totalitarianism that offers the dual benefit of providing the outside world with an illusion of strength while reminding citizens that the state controls their lives to such an extent that it can force them to join such spectacles."

So something must have thrown a real scare into the 75-year-old dictator, and I am quoting still; "last week he orchestrated a forced march through the center of Havana and dozens of other towns that by official count rounded up eight million of Cuba's eleven million people."

Then he forced the country's voting population to line up again beginning last week to sign a petition that calls for his failed Soviet-style economic and political system to be enshrined as untouchable in the national constitution. Naturally, Mr. Castro said he only was responding to provocation from the United States, the excuse for most everything he does.

President Bush recently delivered a speech calling for democracy and Cuban reform and support for U.S. economic embargos, I will not read the whole thing but that is the point. That is the response to the Varela Project.

Now, the issue here is how do we respond in a way to take into consideration first our concern for the people of Cuba and actually make sure we are not increasing their suffering by inadvertently perpetuating the power of the group that is really the cause of their pain. I do not think there is any question whatsoever that we agree there.

Now, we have witnesses, esteemed witnesses who I know are all very well-meaning, as is the chairman, but I think for example, we ought to understand that while we have a natural instinct to believe that unrestricted travel can help promote freedom, sadly this has not proven to be the case with Cuba, in that as Senator Chafee mentioned, all the countries from Europe, from South America, from Canada and others who visit Cuba has not had any appreciable beneficial impact on the freedoms of the people of Cuba.

And as far as our travel, the so-called travel ban, family members are allowed to travel annually to Cuba, as are academics, there are cultural exchanges and sports and music allowed, so are relief organizations and the media. I think that those who advocate travel to Cuba would probably have more sympathetic argument or may be more persuasive if Castro would allow their citizens, the people of Cuba, to travel as freely as our in-born Latin nations.

Today in Cuba the vast majority of their citizens are barred from entering these tourist hotels and resorts, a practice that is called tourist apartheid. It is a crime for a Cuban citizen to criticize the Castro regime to a foreigner, punishable, and this is on the books, punishable by up to 3 years in prison.

The people who work at these tourist resorts get their jobs through loyalty to the Communist Party and still have a lot of their wages taken by the regime. And of course the dollars that might come from Canada or Euros or other hard currency are paid to them in devalued Cuban pesos.

It also appears that black Cubans are discriminated against in the tourist industry, and are grossly under represented in the senior ranks of the Communist Party, the military and the police. And I don't think many of us would agree that we ought to be patronizing hotels that discriminate against people based on their skin color.

Now, many believe that there is a potential market for agricultural products. In recent months Cuba has bought, and because the U.S. law requires it, they have paid cash for a number of their purchases.

The Castro regime has been able to do this because they have stopped making payments on the massive debts they owe to the Europeans and others. I could go into all of this, but they owe nearly \$4 billion of debt to the so-called Paris Club of creditor nations. I don't think we should be putting the United States as a volunteer as a new source of credit.

Now, if you want to look at the Castro regime and how they stifle all forms of economic or independent economic activity, there is an index, so-called Index of Economic Freedom put together in combination with apparently the Wall Street Journal and the Heritage Foundation. And they rank 158 countries, excuse me, 156 countries as far as their economic freedoms.

The United States is tied for fourth. For everyone's interest, Hong Kong is No. 1, Singapore No. 2, New Zealand No. 3, Estonia, Ireland, Luxembourg, The Netherlands, United States tied for fourth on various factors on economic freedom.

Ranked number 145 is Syria, 147 Zimbabwe, 151 is Iran. Cuba is listed 153, 153 out of 156 countries as a place to do business in this year's Index of Economic Freedom. They beat out Libya, Iraq and North Korea. Cuba is clearly bankrupt.

Senator DODD. You can go to those other countries. You just can't go to this one.

Senator ALLEN. Well, the reality is, is we do not have people investing in North Korea, Libya or Iraq either. A default to countries is one thing, but I would ask my colleagues to really conduct as we go forward here, simple due diligence, a review before getting too excited about the prospects in Cuba.

And I do believe the President has a very constructive, positive plan. It is one that I think is a good outline as to where we need to be moving in this regard and facilitating several points. And there actually are some concurrences here. One is humanitarian—

Senator DODD. Wrap this up.

Senator ALLEN [continuing]. Assistance to non-governmental groups. I think the idea of calling for a resumption of direct mail to and from Cuba is a good idea. It would cause no problem to us to see what Fidel Castro says. And also here is where there is a correlation, is the idea of providing or establishing scholarships in

the United States for Cuban students. And I commend the chairman for including that in his measure.

So I think that we need to stand with the oppressed, not the oppressors. I think we need to take great care not to legitimize or perpetuate a system that gives neither food or freedom to the people of Cuba. Let us side with the Cuban people, not with the Castro regime. And in Spanish that would be "Defendamos al pueblo Cubano y no al regimen del Fidel."

Thank you. Gracias, Mr. Chairman, Senor.

Senator DODD. Mr. Aronson.

**STATEMENT OF HON. BERNARD W. ARONSON, CO-CHAIR OF  
THE COUNCIL ON FOREIGN RELATIONS INDEPENDENT TASK  
FORCE ON CUBA, MANAGING PARTNER, ACON INVESTMENTS  
LLC, WASHINGTON, DC**

Mr. ARONSON. Thank you very much, Mr. Chairman. I want to thank the committee for this opportunity to testify and thank the chairman for his kind personal words.

I have many fond memories of many hearings in this very room. And I think we tackled some very tough problems in this hemisphere in those days. I think we made some progress in no small part due to your leadership.

I've said this before but not in this forum, the beginning of that progress was the Bipartisan Accord on Central America which we negotiated in March 1989. On that platform we promoted the first democratic elections in Nicaragua, ended the war there and went on to support successful negotiations in El Salvador.

That bipartisan accord which President Bush the first signed, really depended on leadership in this body. And, Mr. Chairman, I think your leadership and trust in us made a big difference in our ability to move forward. And I give you great credit for the outcome of that.

I am glad to see this committee paying attention to Latin America. In my experience we get in trouble in this hemisphere not because we intervene too much, but because we do not pay attention enough, and we allow problems to grow and fester into crises. Then we try to jump in when the choices are very narrow.

So I give you credit for that. I hope you will continue to pay attention to the hemisphere because I think there are deep problems today in many countries that you know of and care about from Colombia to Peru to Venezuela and Argentina.

I, also, think we have a deep interest in this issue of Cuba. It troubles me that our debate is not more enlightened and constructive than it is. We get polarized very quickly. We question each other's motives very quickly.

And I would like to try to frame the debate in a way that I hope would contribute more to a constructive dialog and then speak to the legislation that you have introduced. I will summarize my statement in the interest of time and introduce it in the record.

One of the mantras that we hear about Cuba is that U.S. policy since 1959 has been a failure and therefore it has to be fundamentally changed. Advocates of the embargo say it has to be changed by tightening the embargo, and opponents say it has to be changed by doing away with the embargo.

I would argue an alternative thesis. I think we probably made many mistakes in the last 50 odd years toward Cuba. There were missed opportunities on both sides. But by and large the policy we pursued toward Cuba was part of our security policy toward the Soviet Union. It was a policy of containment.

It is easy to forget, sitting in this hearing room, that there was a time a few decades ago when it was an open question whether the future of Latin America would follow the Cuban model led by Che Guevara and guerrillas all across this hemisphere or it would follow the democratic model.

Today we look out and the hemisphere is led by 34 democratically elected leaders. Ours is the only regional body in the world, the OAS, that is committed to defend democracy. Democracy is the only legitimate form of government.

Nobody argues that it is an open question, whether Cuba is the wave of the future, not even in Cuba, itself. So I think that rather than flagellate ourselves and demoralize ourselves about how our policy has failed, I think we should take some comfort and confidence from the fact that this fight for the democratic ideal and for the open market ideal has been won.

That does not mean that there are not deep problems with democracy in Latin America. There are. It is under siege. It is threatened. It is imperfect. But nobody believes that the future belongs to Fidel Castro style socialism.

So I think what we should say is that the broad policy of containment was successful. Now, we are in a new post-cold war era and we must ask ourselves what are the appropriate tools the United States should bring to bear. I think as we listen to the debate in the subcommittee, there is also common ground.

I think we share a goal of speeding a rapid transition to democracy in Cuba, and I would add a peaceful transition to democracy in Cuba. So the question is how do we design U.S. policy to accomplish that goal.

This is an old debate in foreign policy that we have around the world. We have it about Iran. We have it about China. We have it about North Korea. We have it about Syria. And it will continue to recur: which is how do you influence a closed dictatorial state and society.

Do you influence it by isolating it. Do you influence it by engaging it. And good people are on both sides of the debate in many instances.

When this body debated permanent normal trade relations with China, for instance, those who advocated that step, which I supported, argued that having trade relations with China, having U.S. investment, having U.S. engagement over time would empower Chinese economically which would empower them ultimately to be independent of the state. It would force pressures for rule-based law to be established to codify property rights. And, over time, it would stimulate openings of political reform. And that is certainly the history we saw in Taiwan, in South Korea; and I would argue we also saw in Mexico.

Many of those who advocate an opening to China advocate isolation of Cuba to achieve the same goal. But the converse is also true. When this body debated sanctions on South Africa, many of

those who argued we should end sanctions toward Cuba argued that sanctions toward South Africa would be the best way to promote majority rule.

I am not suggesting that there is a cookie cutter answer, because there is not. I am just trying to say these are judgment calls. And good people can differ. And we ought to have the debate on that basis. What is the best set of policy tools.

Senator Nelson and others talked about the Varela Project. I am confident that Cuba cannot remain an island of dictatorship in a sea of democracy in this hemisphere. I do not think it can remain a closed statist economy in an integrated, global economic system.

And I think the 11,000 courageous Cubans who signed the Varela Project represent the future of that country and not the Cubans who were forced through coercion and pressure and intimidation to sign whatever the state put in front of them. So I think we can approach this issue with some confidence.

The second point I would make is that we sometimes talk ourselves into the notion that our policy toward Cuba has been fixed and static, and that is not the case either. There has been a shift since the end of the cold war, the collapse of the Soviet Union and the end of our security concerns toward more engagement with the island.

For instance, telephone communications were established between Cuba and the United States as called for in the Cuban Democracy Act in 1992. And those are commercial relationships.

We negotiated a new migration agreement in 1994 with Cuba which continues to be in effect. The Clinton administration, on the recommendation of the Task Force that the chairman referred to, started to license group travel to Cuba for scientific, cultural, education, religious, athletic and other people-to-people exchanges.

Charter travel was expanded between the United States and Cuba under the previous administration as well. And, as has been noted, the last Congress authorized sale of food and medical products, though there was a restriction on commercial credit through U.S. financial institutions.

So, the legislation that you are considering seems to me an evolution in this same direction but not a radical departure from the direction that the Congress and the country has been going in. I think there is a consensus in the Congress and in the country that the United States should find ways to engage with and support and encourage Cuba's nascent civil society and fledgling private enterprises; that we should defend and assist Cuba's brave human rights and democratic advocates and their religious communities; that we should support humanitarian measures to reduce the suffering of the Cuban people and try to ease the plight of divided families across the Florida Straits.

With regards to the specifics of the legislation before the subcommittee, I want to make a few comments and then take questions. I support the lifting of the remittances on Cuban-Americans. I think the net beneficiaries of these remittances are struggling people who live under very, very dire circumstances.

It allows them to take care of their families. And I think it gives them a measure of independence from the state. Having said that, I think in fairness we have to acknowledge that the same dollars

that some would deny through tourism also go to the state, ultimately. They are spent in dollar stores.

And that just illustrates the fact that these are not black and white issues. These are all tough choices. But I think we should lift that restriction. And I would argue, also, as the task force did that the committee should consider legislation that would allow Cuban-Americans to claim family members on the island as dependents under U.S. tax law if they meet the traditional qualifications that the IRS establish.

I believe that Mexican-Americans and Canadian-Americans are afforded that privilege. I think that would also give Cuban-American families some relief who have to sacrifice their own family's welfare to help their families on the island. I would urge the committee to take a look at that.

With regard to the recommendations of the sale of food products and medicine, I think allowing U.S. financial institutions to participate in normal market terms is warranted. The prohibition basically just means Canadian banks or European banks will handle the financing as opposed to U.S. banks.

I note that the bill also calls for a study by the Secretary of Agriculture of export promotion and credit programs with regard to Cuba. I think gathering data is always useful. Personally I would be wary at this stage of supplying credit enhancement to Cuba given both its own credit history and the effective subsidies that that would represent to the Cuban Government.

With regard to the lifting the ban on travel, I think we need to note that the new licensing procedure has allowed tens of thousands, I think it is actually in the hundreds of thousands of Americans to visit. So again this is not a radical break in policy. It is an evolution that would allow all citizens to travel.

The argument that Senator Allen made is a legitimate concern. It is something I share, that the Cuban Government hires the workers and then takes their wages in dollars and doles out about 10 or 20 percent in pesos. I think it is one of the tradeoffs in this issue.

The same is true with remittances, however. One way the committee might address this in the interest of trying to broaden the consensus is to make this end of the travel ban contingent on some changes in those provisions that would allow the hotels involved to hire workers directly and pay them directly. Or you could allow both travel and investment in enterprises that hire workers directly and pay them directly. Or the committee could ask the administration to come back 18 months after the travel ban was lifted to report on whether progress was made in those areas. And that is something the Congress could consider.

Another area I would urge the subcommittee to also consider addressing is the question of resolution of U.S. expropriation claims which was the origin of the embargo. One of the lessons we learned in Nicaragua was that even after a democratic transition takes place, the legacy and the wreckage left behind by these regimes take years and decades to overcome.

Nicaragua was held back and still is held back because investors are reluctant to invest when property claims are uncertain and



they do not know where they are investing and who owns what and whether they will be subject to litigation.

Our task force tried to propose one method of expediting resolution of claims by allowing claimants to take equity interest in existing enterprises in exchange for relinquishing their claims. There are probably many other ways to do this, but I think the Congress should set up a mechanism to begin to at least set up the modalities of this and maybe even begin to engage in it.

Because when the day comes and we celebrate a democratic Cuba, that government is going to be faced with enormous economic problems. We would be doing the Cuban people a great service to get ahead of the curve on this issue rather than plague the successor government with the burden of dealing with those issues.

I will say one final point and then in the interest of time I will take your questions, Mr. Chairman. I hope that we can debate Cuba and discuss Cuba without the kind of vilification of both sides that is too often the case. On the one hand you have the Cuban-American community which is a community I have deep respect for.

I think the Cuban-American community is a "made-in-America" success story. And these are brave, hard-working people who came to this country often with nothing, in one generation rebuilt Miami and became productive citizens.

And the passions they feel for their country are passions we should understand. I think exile is always painful, but it is particularly painful when your motherland is 30 minutes away. Your family is trapped there. You cannot protect them. The freedoms that you enjoy in this country are denied your countrymen.

And I think vilification of the Cuban-American community is a shameful practice that we hear in these debates. And I know this committee does not participate in it, but I think we hear it a lot.

On the other side of the coin, we learned a lot of experience from watching communism collapse in Eastern Europe and the Soviet Union. And many good people believe that the way to undermine and erode the Cuban Government is to engage more, to have freedom-loving people and free people interact and to undermine the infrastructure of this regime.

I think that their credentials and commitment to democracy shouldn't be questioned either as it often is. I thought President Carter's visit was a good metaphor for the tradeoffs. President Carter was permitted to do what he did because the Castro regime knew he would condemn the embargo.

But what he did was unprecedented in Cuba, to speak to the Cuban people, to talk about their rights, not because the United States was talking about it because they were enshrined in the universal declaration of human rights to talk about the Varela Project, to have that printed in Granma.

I think that is subversive. And I think freedom is subversive. So I think that was a good metaphor for the benefits of engagement.

So I commend the committee for taking these steps. I hope we will continue this debate and this constructive tone. I think that the future of Cuba will be democracy. The question before the United States is whether we can get there in a speedy, peaceful

way or whether we are going to have a prolonged, protracted and violent transition.

I think we have deep interest between the two. And I think therefore a policy of gradual engagement as the committee is recommending, I made some caveats which I mentioned, but I think that that is a defensible position. And I think there is history in many other parts of the world to justify it. So thank you for the opportunity.

[The prepared statement of Mr. Aronson follows:]

PREPARED STATEMENT OF HON. BERNARD W. ARONSON, FORMER ASSISTANT  
SECRETARY OF STATE FOR INTER-AMERICAN AFFAIRS

Thank you for this opportunity to testify.

I commend the Subcommittee for holding this hearing. In my experience, the United States gets in trouble far more often when it neglects Latin America than when it is involved. Today, there are serious problems in the region that cry out for attention from the United States—in Colombia, Peru, Venezuela, Argentina and others. Cuba, also, offers both opportunities and challenges. Important U.S. interests are at stake in how that island nation evolves politically and economically in the years to come. So this is a timely hearing, and I applaud the Subcommittee for taking this initiative. I would also like to enter in the record the first and the follow-on reports of the Independent Task Force on U.S. Cuban Relations in the 21st Century sponsored by the Council on Foreign Relations which former Assistant Secretary of State, William D. Rogers and I co-chaired.

Although the future of Cuba is important to the United States, in my experience, our domestic debate too often sheds more heat on the subject than light. One reason I think our debate is not as productive as it could be is that it begins with a false premise and an unnecessary pessimism. One of the mantras we hear often in this debate is that U.S. policy towards Cuba since the 1959 Cuban revolution has been a complete failure. I believe in retrospect we have made mistakes, but broadly speaking I would argue that the opposite is true.

U.S. foreign policy towards Cuba throughout the cold war period was driven by U.S. security concerns. We sought to contain Cuban expansionism as part of a larger policy of containment directed towards the Soviet Union and its allies. In the original article written by George F. Kennan in *Foreign Affairs* in 1947, which enunciated what came to be the containment policy, Kennan argued that only after stopping the spread and expansionism of a totalitarian state like the Soviet Union could forces be unleashed that would subsequently bring about internal change. That thesis proved true about the Soviet Union. I would argue much the same is true about Cuba.

It is easy to forget that if we were holding this hearing in the decade of the 1960's we would be debating the threat posed by Marxist-Leninist guerrilla groups waging revolutionary war with active Cuban support in more than a dozen nations across this hemisphere. For many decades after Fidel Castro seized power it was an open question whether Latin America would follow the path of Cuba and succumb to communist revolutions. Today, when we look out upon the western hemisphere we see 34 nations led by democratically elected leaders.

Though remnants of those guerrilla groups still exist in Peru and Colombia and pose a serious security threat, they are hardly the vanguard of Latin America's future anymore. In this hemisphere democracy is considered to be the only legitimate form of government, and the OAS—through the Santiago Resolution and the newly enacted Democratic Charter—is the only regional organization in the world committed to the collective defense of democracy in every member state.

I don't want to suggest that the state of democracy in Latin America today is healthy. It is deeply troubled and cries out for attention. But whatever pressures and problems and setbacks we confront, I believe that in this hemisphere the great battle of ideas waged between democracy and communism, between statist closed economies and the free market system is over. This hemisphere's future lies in a bold vision of democratic states united in free trade from Nova Scotia to Tierra del Fuego.

Cuba remains the lone, glaring exception to this hemisphere's democratic tide. Cuba remains a one-party, repressive political dictatorship where elemental freedoms from the right of association and assembly, free speech, political pluralism, trade union and most property rights, the right to elect political leaders, due process—none of these basic freedoms exist. Yet I also believe that the Cuban govern-

ment has already lost the crucial battle for the allegiance of the next generation. Few in Cuba, particularly the young, believe that after Fidel Castro departs the scene, the current system can be maintained intact, unchanged for long. I think there is already a recognition among many in official positions that whatever brave rhetorical front they may present, Cuba cannot remain an island of dictatorship in a hemispheric democratic sea nor can it remain a closed, statist economic system in an increasingly open, integrated global economy.

So rather than approach U.S. policy towards Cuba from a position of defeatism, we should instead approach Cuba with a strong sense of confidence. The question for U.S. policymakers is: looking beyond Fidel Castro: how do we create conditions that will speed Cuba's rapid, peaceful—and I believe ultimately inevitable—transition to democracy.

What is at issue is an old and recurring question in foreign policy: do we influence a dictatorial, closed regime most effectively through isolation or engagement. We face this question in many other parts of the world: China, Iran, North Korea, and Syria, just to name a few. Good people find themselves on different sides of the debate depending on the circumstance.

Consider the debate about Permanent Normal Trade Relations with China (PNTR). Advocates—and I am one of them—argued that opening trade and economic relations with China would over time create pressures for rule-based law, empower a new generation of Chinese citizens economically, and ultimately create internal pressures for democratic political reform. That was the evolution we witnessed in Taiwan, South Korea and I would argue also Mexico. It is the same justification for our opening towards Vietnam. But many who advocated such an opening towards China in the name of promoting democracy call for continued or even greater economic isolation of Cuba to achieve the same result. Conversely, many who argued that only strong economic sanctions would compel South Africa to embrace democratic majority rule argue with regards to Cuba that ending sanctions will help promote democracy.

The point I am making is that these are judgment calls and rather than question each other's motives, the advocates of engagement and the advocates of isolation should instead debate how the policies they advocate will help speed the peaceful democratization of Cuba and avoid legitimizing and prolonging the life of Cuba's current dictatorship.

I believe that during the cold war, when security concerns were paramount and Cuba was allied with the Soviet Union, a policy of isolation and denial of hard currency served U.S. interests. To put it simply, every dollar denied to Cuba was one less dollar used to buy an AK-47 for a Cuban allied guerrilla group in Latin America or build an airport runway in Cuba that could accommodate Soviet Backfire bombers. With the Soviet empire gone, and Cuba, whether through conviction or necessity, having renounced support for revolutionary violence we need to ask whether the policy should shift accordingly.

Despite the conventional wisdom that our policy has been unmovable, there has already been a shift in direction in the last decade since the end of the Cold War. Telephone communication between Cuba and the United States was re-established as called for under the Cuba Democracy Act of 1992. A new understanding on migration was negotiated in 1994, which continues to be in effect. The Clinton Administration, on the recommendation of the Council on Foreign Relations Task Force, adopted a new policy of licensing group travel to Cuba for scientific, cultural, educational, religious, athletic, and other people to people exchanges. Charter travel was expanded between the United States and Cuba and remittances were increased. The last Congress authorized sale of food products to Cuba, though denying commercial credit through U.S. financial institutions.

The legislation you are considering is a further evolution in this direction. In many ways it tracks the recommendations of the Task Forces which the Council on Foreign Relations convened, though in fairness to the members of the Task Force, there was far less consensus for the recommendation to allow individual travel.

Still, I think there is a growing consensus in the Congress and in the country that the United States should find ways to engage, support, and encourage Cuba's nascent civil society and fledgling private enterprise, defend and assist Cuba's brave human rights and democratic advocates and religious communities, support humanitarian measures to reduce the suffering of the Cuban people, and ease the plight of divided Cuban and Cuban-America families across the Florida Straits.

With regards to the specifics of the legislation before the Subcommittee let me make a few comments and then take any questions the members may entertain.

I support the lifting of the current limit on remittances that Cuban Americans may send to their relatives on the island. I believe that this assistance reduces suffering of many Cubans and increases their independence from the State. I would

urge the Subcommittee to also consider proposals made by the Task Force to allow Cuban Americans to claim for dependency status for tax purposes family members in Cuba who otherwise would meet IRS requirements. I understand that this provision currently applies to U.S. citizens with dependents in Mexico and Canada.

With regards to the provision on sale of food products, I believe that allowing U.S. financial institutions to participate on normal market terms is warranted. I note the bill also calls for a study by the Secretary of Agriculture of export promotion and credit programs with regards to Cuba. While gathering data is always useful, personally I would be wary at this stage of supplying such credit enhancement to Cuba given both its own credit history and the effective subsidies this would represent for the Cuban government.

With regards to the lifting of the ban on travel by U.S. citizens, I would note that with the change in licensing procedures by the U.S. Treasury, which allow group travel for designated purposes, tens of thousands of Americans, are already visiting Cuba. So this is a further evolution of a policy that has already begun to change. Opponents argue that such a policy largely benefits the government. They point out correctly that the Cuban government hires workers for tourist hotels and other facilities and that the foreign joint venture partners in these hotels pay the workers' wages to the Cuban government, 80 to 90% of which are retained by the government.

These are legitimate concerns though I would note that they probably applied to the Soviet Union during the cold war period. There might be several possible ways to address this issue to build broader consensus. The lifting of the ban could be made contingent on changes in these hiring and payment policies. Alternatively, the Administration could be directed to report back to the Congress within 18 months to report on the net effect of the lifting of the ban, including any progress in changing these provisions on hiring and payment of workers that the Congress might want to take into account. Or a broader provision could be enacted that would permit not only travel by U.S. citizens, but investment in enterprises where U.S. companies would be permitted to hire and pay Cuban workers directly.

Another area, which I would commend to the Subcommittee's attention, is the question of resolution of U.S. expropriation claims. As you know, the embargo was originally placed on Cuba in response to the expropriation of U.S. private commercial assets following the 1959 revolution. One of the lessons we learned from post-communist recoveries in nations like Nicaragua is that the legacy of these dispute claims can hobble a new democratic government for decades and retard desperately needed investment for development because property titles remain in dispute and subject to future litigation. The Task Force recommended one possible way to begin to resolve these disputes by allowing equity in existing Cuban enterprises to be used to resolve such claims if the claimant agrees. Other mechanisms could be explored. But I believe that it is in the interest of a future democratic Cuba that we begin to explore modalities for discussing and beginning to create a mechanism for such claims resolutions even before a democratic transition has begun. I would urge the Subcommittee to give this matter attention in the future.

There are many other issues we could discuss. In the interests of the Subcommittee's time I would prefer to conclude my formal remarks and take any questions you might have. Thank you.

Senator DODD. Thank you very much. Very fine testimony, and I certainly want to second your comments. I have had a deep and abiding respect for the exiled community as well. And for those who have not had their families suffer as many Cuban-Americans have, I do not think they understand this is not just a neck-up reaction. There is deeply felt, passionate feelings about what has happened.

And I think you need to understand that and appreciate it. And I certainly do. And I too regret that over the years this has been—any debate about different approaches has always resulted in name calling which I do not think has served the interest of our own country.

After all, our primary responsibility here is to see to it we do things that are in the interest of the United States. And so it has been disappointing to me. It has been very, very difficult over the years to start talking about alternatives without being labeled, or

at least attempts to label people as being soft or non-caring about these regimes.

And I know earlier Senator Nelson made the issue of terrorism coming from possible Cuban vessels to the United States. Obviously all vessels that come here pose some threats to us. And I recall very vividly it was a man name Orlando Bosch who fired a rocket at a Polish ship in a Florida harbor because it had stopped in Havana to come here.

So there have been terrorist acts associated here. But we need to keep in mind that this is not all coming from one particular angle or another.

Let me ask you, because you had your—by the way, I am going to set the clock for 5 minutes, we have got to move this thing along so we do not end up with lengthy statements here.

The task force on Cuba has been operating since 1998. And I gather it is a fairly diverse group of people. And the task force has gone out of its way to make sure that there is a wide range of views. Is that accurate or not?

Mr. ARONSON. Yes.

Senator DODD. Give some sense of that just—

Mr. ARONSON. Well, you know, we self-consciously tried to do something that had not been done before which is to bring together people who may disagree about the embargo and see if we could build some common ground on other issues.

And I think particularly in the first report there was a lot of common ground built around this notion of supporting civil society inside of Cuba, people-to-people exchanges. The licensed group travel was a recommendation we made and which the Clinton administration embraced.

And I think the second group went ahead and recommended the end of the travel ban as well. There was less consensus about that, to be fair, because of the issue that Senator Allen raised which is who is the net beneficiary, and there are tradeoffs in that.

But I think that the travel ban does not exist anymore. I do not know the exact numbers but upwards of 150,000 Americans I think went to Cuba legally under licensed provisions last year.

So the question is whether you have this kabuki dance where you create a group and you go under those circumstances or you can go as an individual. And I think the horse is already out of the barn on this issue.

I would rather try to press in the direction I was talking about which is to create some sort of pressure on the Cuban Government to pay workers directly and, I mean, to allow the enterprises to pay the workers directly and hire them directly and allow the travel to go forward.

It is very hard to understand what causes a totalitarian state to implode. And I have watched this process as all of us have and I have talked to a lot of participants. But I think at the end of the day it is when the rest of the people lose their fear of the regime and recognize that the vast majority of their compatriots hate the regime as much as they do.

People are afraid to talk to each other. And I think that the engagement with free people is subversive. I went to the Soviet Union in 1974. And I remember very well that all of the guides that they

sent with us who were all party members were very disciplined in the beginning. And they were always on the bus on time. And they always gave the party line.

And here we were, a group of Americans. Of course everybody had their own views and no one came on time. And I just watched their body language over 17 days. It was painful for them to be around free people because they were not free people.

And I think it undermined who they were. I think they did not like being robots around free people. I don't mean it simplistically. But I think freedom is subversive. And I think we should not underestimate the intangible value of this.

But I think that those who advocate this also have to be the strongest advocates for the human rights in Cuba and defending the dissidents and the brave people standing up so that everybody understands this is not just commercially driven.

Senator DODD. If I could add too, as well as listening to the dissident human rights activists inside a place like Cuba who bring a very different set of issues to the table than those who are not necessarily living in Cuba, who care about the issue very much, I have always found it interesting to compare the views on some of these issues that we have raised today, when you raise them with the people inside Cuba, many of whom have spent years incarcerated by the Castro regime, who have ironically a different reaction to some of these suggestions than those who have been outside of it.

I wonder if you might, and I want to just again underscore the point you made, I do not think there is a single approach you could take on what works best when you are dealing with either authoritarian or totalitarian regimes in how you respond to it. The idea that one approach is always going to produce the desired results I think could be proven terribly false.

You need to judge under the set of circumstances you are dealing with, maybe sometimes the combination of things that produce results. And I gather if you look here, I would like to make just a quick analysis if you would, on the task force recommendations and the bill we have before us. I mean, are these track—we tried to in our bill track here the task force.

Mr. ARONSON. They actually track almost provision by provision. We didn't support—we didn't call for a study on credit, but otherwise ending the ban on the sale of food and medicine and the travel ban, scholarships. We didn't speak to the issue of ending the provision which I think is in the Cuban Democracy Act banning the ship travel. But I think it is a logical extension if you allow food and medicine in.

While Senator Nelson is correct that every ship that comes in today is an extra security concern, I think that is a security concern. I do not think it is heightened because of it might have stopped in Cuba, although if we discover it is, then I think we had better stop that practice.

But I think by and large our recommendations are pretty much on track with what the legislation calls for.

Senator DODD. One point on the scholarship issue. The administration proposal on the scholarship program is to allow scholarships to go to the children of dissidents. I think the children of dis-

sidents ought to be able to qualify for these scholarships, but it limits it to those people.

My view has been that you shouldn't exclude them obviously, but you should not necessarily limit it. And I wonder our bill does not limit it.

Mr. ARONSON. I would agree. You know, one of the lessons we learned watching Eastern Europe change and watching the Soviet Union collapse is that in these times of transition you never know who is who in these regimes.

Boris Yeltsin was a member of the Politburo of the Soviet Union, the highest political body. Probably more than any other single individual in Russian history, he put the last nail in the coffin of Soviet communism.

And I think you find individuals whether through conviction or opportunism or change of view, who at a time of transition are ready to either participate in or support or tolerate a transition. And you don't know who is who in these regimes.

I think we have to have more confidence that our values and our system is stronger than the coercion that they live under and that we can find allies in places we don't even know about and don't even know who they are.

I do not know if you remember, Senator, my Soviet counterpart Yuri Pavlov with whom I negotiated on Central America. It was my first trip as Assistant Secretary of State. Well, he had been a reformer all his life. But he had never had the courage to tell anybody except one individual who said, don't ever repeat that.

And he actively collaborated with us, and so did his government in ending the Sardonista regime through democratic elections, ending the war in El Salvador. I think there are Yuri Pavlovs all throughout Cuba. And I think most Cubans understand that the future is not going to resemble the last 50 years.

So I think having some confidence to reach out to these people is very much in our interest. I think we will find some allies.

Will we be used to some extent, yes. I don't think we should allow the Cuban Government to control the process of this scholarship. And if they do, we would have to review it.

But I think limiting it that way, I think in a way it will stigmatize the recipients. I think that no scholarships will be issued, to be honest.

Senator DODD. Our time is up but you have provoked one comment from me. I do not know if it is still the policy, and I hope it is not, but I have a feeling it may be, and that is to prohibit members of our own interest section to have much of any contact with their counterparts in the Cuban Government.

Now, there are obvious reasons I suppose to be worried about that but I propose specific examples where a couple of young Foreign Service officers in the Cuban Interest Section were prohibited from having contacts with other younger people in the Cuban Government. And I thought it was a grave mistake.

These people could at the very time be the Pavlovs in the next 15, 20 years less than that, when change occurs we have established those contacts and relationships. Now maybe the policy has changed but I know a year or so ago, maybe someone correct me if it has, that does not make a lot of sense to me.

If you have an intersection there, it seems to me if you hire smart enough people who are secure in their own patriotism, they are not going to be coopted by people through conversating contacts. So I hope those have changed. Senator Chafee.

Senator CHAFEE. Thank you, Mr. Chairman. The chairman mentioned that you were the co-chair of the Council's Task Force on U.S.-Cuba Relations, and in your deliberations what impediments did Helms-Burton raise and how do we reconcile the direction to go with the restrictions that we have under that legislation?

Mr. ARONSON. Well, actually, I am glad you asked that question, Senator, because I think one of the provisions of your bill would restore to the President the flexibility to end the embargo which I think was codified by Helms-Burton. We didn't address that issue.

One of the bargains we made was we are not going to talk about Helms-Burton. We are going to try to find common ground in other areas. But as somebody who comes out of the executive branch, I think it is wise and necessary to give the President of the United States the flexibility to conduct foreign policy. And I would much rather see the President vested with that authority than the Congress.

With all due respect to the Congress, I just think you cannot have 535 Secretaries of State. And while the Congress has——

Senator DODD. You can have them. They just do not work very well. We have got them.

Mr. ARONSON. Yes, takes up a lot of time. So I think that is one area which needs to be addressed. Title 3 as you know continues to be waived, so it is there in the books, but no President, neither President Clinton, President Bush or current President Bush has exercised that right and believes it is in our interest to do so.

I think that the embargo is already being amended in many ways because ultimately what the embargo says is you cannot spend dollars in Cuba. All of this licensed group travel is spending dollars in Cuba.

If you have travel to Cuba, you will have more dollars spent in Cuba. The remittances if they are lifted will add more dollars to Cuba though they don't violate the embargo. So I think that policy is evolving.

But I would support giving that authority back to the President. I think that is where it belongs. Because ultimately some President is going to want to bargain with some successor regime. And I think that he or she should have that power to bargain and use those chips if the Congress hasn't already acted. I don't know if that answers the question you asked.

Senator CHAFEE. Thank you. Regarding the Varela Project, my own theory is that the President in Cuba let that happen as a signal to the West. I cannot imagine that he would allow that to go forward without some acquiescence as a signal. I believe he has got an ego. That is no understatement.

So he has got to send out signals to us that things are changing and doors are opening. At the same time, though he must protect his dream of the revolution, despite that it has obviously failed. As I said before we have to take these signals seriously in biomedical issues, in agriculture and in travel. We must move forward as times are changing.



Mr. ARONSON. You know, I find it curious that they allowed the Varela Project to go forward. I think you are correct. They could have stopped it at any time.

They did harass and intimidate a lot of the participants. They did not make it easy for them. But I do not know why they allowed it to happen, though they clearly are not going to let it go any further.

That was the thrust of what was done in the last week or so. But to me the real story is not that they let it go forward, though I think that it is interesting, but that 11,000 Cubans were brave enough to do what they did because that took a lot of courage.

And to me that suggests part of what we are talking about which is the transition has already begun. We do not know how it is going to play out, but I think it has already begun. I think the youth in Cuba have no interest in Cuban style socialism. I think that everybody understands that when El Viego goes, that there is going to be a change.

But nobody knows exactly the form. And I think the fact that the Varela Project happened is a good sign that the times there are changing, as the great foreign policy expert Bob Dylan once said.

Senator CHAFEE. I guess I am a hopeless cynic, but in the Varela Project I believe he could be accepting of people signing the petition. "Go ahead and sign it," he might be saying. I see the strong fist with which he rules that country and I suppose I'm just being very, very cynical.

Mr. ARONSON. You are correct that it would not have happened without the regime, without them allowing it to happen. And I do not really know why they did. Because he is not really sending a signal. Because his signal is never.

He is now collecting several million signatures saying they are going to enshrine in the constitution that socialism cannot be altered. That is what this latest petition drive is about. So he's trying to say maybe there are 11,000 people who signed the Varela, but millions of Cubans love the revolution and want it forever.

So that is the signal he is sending today. It doesn't happen to be true, but that's the signal he would like to send.

Senator CHAFEE. Thank you.

Senator DODD. Senator Allen.

Senator ALLEN. Thank you, Mr. Chairman. Secretary Aronson, it was good to hear your optimism and your thoughtful approach and experience in these matters. And in trying to apply what we've learned in history versus to the facts of the case here which may not be applicable, but nevertheless very thoughtful remarks. I am glad you are here to share them with us.

Your comment, freedom is subversive, I would just with all due respect, I would just simply use the phrase freedom is invigorating. That is the way I would look at it. But you bring up some ideas. The contingency ideas, in other words if you want us to have, say, the travel ban, the remittance matter, you can almost change that just by indexing it.

But regardless, as far as your contingency approach if Cuba and the Castro regime, allows this greater freedom and directness whether it is in money or access to hiring, then we will change our policies I think, Mr. Chairman, is something worth exploring. And

I would hope that you would continue to share with us your views on how that sort of contingency approach would go forward.

You gave some caveats. As far as financing of food or medicine sales, you said do not finance them. Do not allow financing through U.S. banks. What would be the financing facilities?

Mr. ARONSON. Right. I support allowing U.S. banks to handle those under normal commercial terms. There is a provision in the bill that calls on the Secretary of Agriculture to study credit enhancement programs vis-a-vis Cuba. And while I think having the study is fine, I would not support credit enhancement, I used to know this when I was in the government but there are various credit enhancement programs where you can get concessionary terms to buy U.S. agriculture or goods.

We have these programs all around the world. I would not advocate that for Cuba at this time.

Senator ALLEN. Do you find—

Mr. ARONSON. But I do think at this point if they are going to buy U.S. grain and get a commercial line of credit, a normal line of credit, I do not know what the logic is of saying they should get it from the Bank of Nova Scotia as opposed to the Bank of America. It does not help the regime any to pick a Canadian bank over a U.S. bank which is what the current law would require.

Senator ALLEN. Well, the only concern there would be potentially is if they defaulted then the taxpayers of the United States would be ultimately responsible.

Mr. ARONSON. Well, I think in this instance it would be private transactions. That point would be the case if it was some U.S. Government credit enhancement programs.

But I think in this case it would just be private banks taking the risk. So I think in that case let the market decide.

Senator ALLEN. The other issue that you alluded to and discussed, and so did the chairman, was that seemingly when President Bush's initiative for a new Cuba mentioned scholarships, and granted it does say for family members of political prisoners but it also establishes scholarships in the United States for Cuban students and professionals which I think at the least is common ground.

You know, Cuba compared to even the People's Republic of China, there are many citizens from the People's Republic of China who are studying in our colleges and universities and go back. So while I am not going to say that the People's Republic of China is the most enlightened country in the world, they at least allow thousands of students to come here and learn.

Assuming we could get a common ground on at least that aspect of it, what do you think the Castro regime's response would be to allowing students to come to the United States to study on scholarships?

Mr. ARONSON. Well, I think first it depends on how it was couched in our case. I think we should try to couch it in educational terms and not political terms.

And then second, I think it would depend on the criteria by which we determine they would have to be chosen. If we set criteria that are too overtly political, probably they won't allow it to happen. But I think if it is done for educational, business and other

purposes, I think it probably could evolve over time; maybe not day one.

And I think the China analogy is a good one. Because one reason why I am hopeful about the future of China, and I think China has changed significantly in the last 20 years though it is by no means a democratic state, but I think it has changed from the time I first visited it, is that those students who tend to be the sons and daughters of the elite who studied over here in U.S. universities, about 20,000 of them. I think they are going to be the agents of a different China.

It is not always the case, but I think young people who have come over here and lived in a free society are not so interested in coming back and living under the lock and key of a totalitarian regime.

It isn't always the case, you know. Mohammad Atta was an engineering student. And it didn't seem to have a very constructive effect on him. But I think by and large that when I say freedom is subversive, I think it is subversive of totalitarianism.

Senator ALLEN. Understood. Thank you, Mr. Secretary.

Senator DODD. Thank you very much. And I just come back a bit. The question of conditionality on the remittances or on the travel. As a general matter, I do not like giving anybody veto power over my policies in the United States. Either you have them or you do not have them.

When you start placing conditions on policies like that, you too often then defer or transfer power to the very people you want to deprive of that decisionmaking.

If I want them to build a veto power in Havana, I would rather have us decide how it makes sense or it does not make sense and decide on that.

I am concerned that we have seen an uptick here, some 400 people now as I mentioned in my opening comments have been subjected to some penalties because they were truthful in their responses about having gone to Cuba not through some licensing process.

And with all the work we have to do to be chasing 400 Americans because they went to Cuba, when I can think of some other people they might be keeping an eye on right now, I wonder about the wisdom of all of that.

So I would hope we keep that point in mind as we look at this, that I found we are getting ourselves in trouble when we try and place conditionality, the assumption being that this is necessarily a great asset, free travel to Cuba.

Now clearly there is a dollar amount coming in. But I can tell you flat out that I also know they are weighing the benefits and the liabilities. And I think one of the great fears of totalitarian and authoritarian regimes is light.

They slide best in darkness. And when you all of a sudden flood, as you would, we are not talking about a trip to Vietnam or China now, but a hydrofoil will get you across there in a matter of minutes. The notion of having thousands of Americans and others joining, showing up; you are a closed society. That is an intimidating prospect.

The value of having the dollars coming in is clearly an asset. But the notion you could end up with as much I think of an influx of U.S. citizens possibly going there has got to be very intimidating, if your idea is to perpetuate this closed society. So that is why I raise that issue.

But nonetheless, well, certainly any suggestions and ideas in this area are helpful. We could carry on a conversation just with you, Bernie. You have been very helpful. We could bring you back. We have hearings on Mexico and Colombia.

Mr. ARONSON. I'll come back for Colombia. That's a subject I have been paying a lot of attention to.

Senator DODD. The President elected yesterday and I would hope that we can find some real opportunities to present themselves in working on that issue. So we'll continue calling on you. Thank you, sir.

I am glad you are interested. I am glad you approve that while these aren't the hottest issues in town, other issues for obvious reasons are, I thought as the chairman of the subcommittee it would be worth our while to periodically do reviews on where we are and help the people.

Mr. ARONSON. I think it is very important. I think it matters to Latin America that we are paying attention. We obviously have important security concerns these days, but I think there is a sentiment in the region that we are not too engaged these days. And I think we need to send counter signals. So I applaud the subcommittee for doing this. I think it makes a difference.

Senator DODD. We'll leave the record open.

Mr. ARONSON. Thank you. And I'll introduce the two task force reports<sup>1</sup> with your permission.

Senator DODD. Thank you. We will make them part of the record. We'd like to have them. Thank you very much.

Senator DODD. Our second panel, I have already introduced you, and I hope I have pronounced the names correctly. We are going to have you join us up here at the table, Dr. Leshner, Dr. Morton, Dr. Bridges, Dr. Rasenick. Thank you all for being here.

Senator Nelson is going to try and get back. Again it is like any day around here, busy days during the week in the afternoon. Senator Allen I know wanted to stay as well, and Senator Chafee is going to have to leave us as well. So I thank Senator Chafee for being here.

What I would like to do is first of all thank all of you. It is tremendously helpful to have you here and be a part of this subcommittee hearing. I have already sort of introduced you in terms of background and the like. I didn't give you the lengthy introductions you probably richly deserve, but we will leave that for the record.

Senator DODD. Let me introduce you in the order that I mentioned your names. Dr. Leshner, we'll start with you. You are our lead-off witness. I am going to tell you that all of your statements,

<sup>1</sup>The reports referred to can be accessed at the Web site of the Council on Foreign Relations <http://www.cfr.org/> and are entitled as follows: "U.S.-Cuba Relations for the 21st Century," January 1, 1999, and "U.S.-Cuba Relations for the 21st Century: A Followup on the Chairman's Report," February 1, 2001.

any supporting documentation we will make a part of the permanent record. I will ask unanimous consent to do that.

And second, I am going to put, say, around 7 minutes on the clock. If you can do it in less, fine; if not, fine, do not worry about it. But just so we give you some sense so we can try and get through the testimony, if we can.

So with that, Dr. Leshner, thank you for being here. And we will receive your testimony.

**STATEMENT OF ALAN I. LESHNER, PH.D., CHIEF EXECUTIVE OFFICER, AMERICAN ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE, WASHINGTON, DC**

Dr. LESHNER. Thank you, Mr. Chairman. I am delighted to be here and have the opportunity to set the stage and discuss the importance of open international scientific exchange.

I represent the largest general scientific society in the world. We have over 130,000 members and 272 affiliated societies. Our members come from the entire range of science and engineering disciplines in many nations throughout the world.

In the 21st century, the science and technology enterprise is truly global in character. Modern information and communication technologies as well as the ease of international travel have transformed what once were individual national scientific communities into really a single world community.

Collaboration across national boundaries is the norm, no longer the exception. And virtually every country has some scale of science it conducts, as everyone has come to understand the centrality of science and technology to every facet of modern life. Those peoples without access to science and technology are doomed to be disadvantaged long into the future.

We've also learned that in the 21st century context, it works against everyone's interest to isolate any individual national scientific community. We of course recognize the primary need to protect individual and national security, but there is no credible reason to limit international collaboration in non-classified research.

In a 1999 resolution, the AAAS, the American Association for the Advancement of Science board of directors emphasized that progress in science and technology is greatly enhanced by the unfettered exchange of information, especially freedom of movement across countries and a right to travel.

They argued that such progress actually promotes national security and promotes democratic decisionmaking and the general welfare by ensuring access for Americans to later discoveries, whatever their country of origin.

The AAAS board argued that progress and science will be impeded in fact if political criteria are used to obstruct open international discourse of scientists and engineers.

They also emphasized that the universal language of science is often a means to bridge the political chasms that divide nations. Numerous examples have shown that international scientific communication can be a very successful venue through which to begin broader diplomatic discussions.

Obvious examples include scientific collaborations that were ongoing during the so-called cold war with the Soviet Union and dif-

ficult times in our relations with Chile. Free and open scientific exchange among countries builds trust and mutual understanding.

We also believe that we have a human obligation to openly exchange scientific information and advances. The entire world is facing increasingly complex and often devastating problems of poverty, environmental degradation, human disease. Science and technology have a long and fruitful track record in helping to solve many of the most complex problems in humanity.

AAAS believes that we in the American scientific community have an obligation to reach out to scientists and engineers around the globe and explore ways that science can improve the lives of people everywhere.

Most scientists in the United States also agree that scientific and educational exchanges with their colleagues abroad are beneficial to the development of science in our country. And if you take the case of Cuba that we are discussing today in the area of environmental research, collaboration between the United States and Cuba has resulted in the discovery of new species, in an increased awareness about the importance of Caribbean biodiversity and joint publication and dissemination of other ecological and biological information.

Additional potential benefits of increased collaboration with Cuban scientists include ways to prevent contamination of coastal waters and new approaches, as I'm sure you'll hear today, to sickle cell disease and vaccines for meningitis and hepatitis B.

Representing the scientific community, the American Association for the Advancement of Science recently restated its mission as to advance science and innovation throughout the world for the benefit of all people. We believe that our discussion today can help us realize that noble goal. And I applaud you for holding this hearing and for raising this topic to national attention again. Thank you very much.

[The prepared statement of Dr. Leshner follows:]

PREPARED STATEMENT OF ALAN I. LESHNER, PH.D., CHIEF EXECUTIVE OFFICER,  
AMERICAN ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE

Mr. Chairman, members of the Subcommittee, I'm delighted to be here and have the opportunity to discuss the importance of open international scientific exchange. I represent the largest general scientific society in the world with over 130,000 members and 272 affiliated societies. Our members come from the entire range of science and engineering disciplines and many nations throughout the world.

Mr. Chairman, in the 21st century, the science and technology enterprise is truly global in character. Modern information and communication technologies, as well as the ease of international travel, have transformed what once were individual national scientific communities into a world community. Collaboration across national boundaries is the norm, no longer the exception, and virtually every country has some scale of science it conducts, as everyone has come to understand the centrality of science and technology to every facet of modern life. Those peoples without access to science and technology are doomed to be disadvantaged long into the future.

We also have learned that in the 21st century context, it works against everyone's interest to isolate any individual national scientific community. We of course recognize the primary need to protect individual and national security, but there is no credible reason to limit international collaboration in non-classified research.

In a 1999 resolution, the AAAS Board of Directors emphasized that progress in science and technology is greatly enhanced by the unfettered exchange of information, especially freedom of movement across countries and the right to travel. They argued that such progress actually promotes national security, democratic decision-making and the general welfare by ensuring access for Americans to the latest discoveries, whatever their country of origin.

The AAAS Board argued that progress in science will be impeded if political criteria are used to obstruct open international discourse of scientist and engineers. They also emphasized that the universal language of science is often a means to bridge the political chasms that divide nations. Numerous examples have shown that international scientific communication can be a very successful venue through which to begin broader diplomatic discussions. Obvious examples include scientific collaborations ongoing during the "cold war" with the Soviet Union and during difficult times in our relations with Chile. Free and open scientific exchange among countries builds trust and mutual understanding.

We also have a human obligation to openly exchange scientific information and advances. The entire world is facing increasingly complex and often devastating problems of poverty, environmental degradation and human disease. Science and technology have a long and fruitful track record in helping to solve many of the most complex problems of humanity. AAAS believes that we in the American scientific community have an obligation to reach out to scientists and engineers around the globe and explore ways that science can improve the lives of people everywhere.

Most scientists in the U.S. also agree that scientific and educational exchanges with their colleagues abroad are beneficial to the development of science in our country. Take the case of Cuba that we are discussing today. In the area of environmental research, collaboration between the U.S. and Cuba has resulted in the discovery of new species, an increased awareness about the importance of Caribbean biodiversity, and joint publication and dissemination of other ecological and biological information. Additional potential benefits of increased collaboration with Cuban scientists include ways to prevent contamination of coastal waters and new approaches to sickle cell disease and vaccines for meningitis and hepatitis B. You likely will hear more from my colleagues on this panel today.

Representing the scientific community, the American Association for the Advancement of Science recently restated its mission: "To advance science and innovation throughout the world for the benefit of all people." I believe our discussion today can help realize that noble goal.

[Attachment.]

#### AMERICAN ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE (AAAS)

Founded 150 years ago, AAAS is the world's largest federation of scientific and engineering societies, with nearly 275 affiliates. AAAS counts more than 130,000 individual scientists, engineers, science educators, policymakers, and interested citizens among its members, making it the largest general scientific organization in the world. Our mission is to advance science and innovation throughout the world for the benefit of all people. Our objectives in this mission are to foster communication among scientists, engineers and the public; enhance international cooperation in science and its applications; promote the responsible conduct and use of science and technology; foster education in science and technology for everyone; enhance the science and technology workforce and infrastructure; increase public understanding and appreciation of science and technology; and strengthen support for the science and technology enterprise.

The AAAS Science and Human Rights Program (SHR or the Program) was established in 1976 to give scientists a way to help their colleagues around the world whose human rights are threatened or violated. Mobilizing effective assistance to protect the human rights of scientists around the world remains central to its mission, as well as making the tools and knowledge of science available to benefit the field of human rights. AAAS Resources relating to scientific freedom and travel include:

"The Right to Travel: An Essential Freedom for Scientists and Academics," by Alastair T. Iles, and Morton H. Sklar; February 1996.

"The Right to Travel: The Effect of Travel Restrictions on Scientific Collaboration Between American and Cuban Scientists," Elisa Muñoz, July 1998.

Senator DODD. Thank you very much, doctor. I appreciate it very much. I believe the next witness is Dr. Morton.

**STATEMENT OF DONALD L. MORTON, M.D., MEDICAL DIRECTOR AND SURGEON-IN-CHIEF, JOHN WAYNE CANCER INSTITUTE, SANTA MONICA, CA**

Dr. MORTON. Thank you, Senator. I appreciate the opportunity to appear before this committee and provide comments and perspective on the topic of advances in medical research in Cuba. As a cancer surgeon, cancer researcher, as well as a cancer survivor, I have tremendous personal and professional interest in seeing that potential advances in the treatment of cancer from researchers located throughout the global community, including Cuba, be made available for the benefit of cancer patients in the United States and throughout the world.

Cancer is a universal enemy of all mankind. Politics should not get in the way of our being able to take full advantage of life-saving treatments, whatever the origin.

My work in the field of cancer and immunology began over 40 years and 600 scientific articles ago. Ever since I became a physician, I have studied how the immune system can be stimulated to fight cancer. I have dedicated my career to advancing research and development of promising technologies, such as vaccines, for the treatment of cancer and eventually for prevention.

Ultimately, I believe this will lead to breakthroughs in cancer treatments. Today we appear to be on the threshold of translating cancer immunology research into real treatments for difficult cancers.

With over 500,000 people dying each year of cancer in the United States, at a public health cost of more than \$100 billion, the search for treatments and cures must continue to be purposeful and it must be relentless.

No doubt cancer has touched the lives of everyone in this room today in one form or another. One of every three of us will develop cancer. And I know that this distinguished group is working hard to promote the advancement of cancer treatment and research. Today we need your support more than ever.

I currently lead the John Wayne Cancer Institute as medical director and surgeon-in-chief. The John Wayne has emerged as one of the world's most innovative cancer research centers thanks to support from the National Cancer Institute and many generous private donors. Patients have traveled from more than 40 foreign countries and 48 states to receive treatments from John Wayne physicians, many of whom are listed among the world's top cancer specialists.

More cancer patients have received cancer vaccine on research protocols at the John Wayne than any other research center in the world. My own research efforts are currently focused on the development and improvement of therapeutic cancer vaccines which are designed to stimulate the immune system to fight cancer.

As a result of over 40 years of research, a vaccine I developed for the treatment of advanced stage melanoma, a rapidly progressing and deadly form of cancer with an average survival of only 8 months, is being studied in large phase III pivotal international clinical trials, the final step before FDA approval.

I serve on the board of directors and as a consultant to a biotechnology company which I founded and in which I have an equity



interest, that is working to finalize the development of this vaccine and obtain regulatory approvals around the world to make the vaccine available to all patients.

While on the day-to-day basis I am a surgeon, I strongly believe in the importance of basic research. And that is what brings me here today.

I recently returned from a licensed, scientific exchange to Cuba, my first visit there, with all proper clearance received from the Treasury Department. During this trip I engaged in a rewarding academic dialog with Cuban scientists.

While I have known about the quality of their work through public articles and presentation at American scientific meetings for some time, I was impressed by the depth and sophistication of their research, especially as it relates to cancer immunology.

The Cuban researchers have made some interesting and novel discoveries and achieved significant progress in the development of cancer immunotherapies. Several of the immunotherapy products that were developed in Cuba are currently being tested in clinical trials in the United Kingdom and Canada. One type of immunotherapy product being developed by the Cubans is based on monoclonal antibodies, which are proteins produced by the immune system that target cancer cells like "smart bombs".

This is an area of significant interest for cancer researchers, and there is at least three drugs approved by the FDA that involve monoclonal antibodies. Cuban researchers have also focused on developing therapeutic cancer vaccines that are designed to stimulate the immune system to develop antibodies that target cancer growth factors like epidermal growth factor receptors and gangliosides, which are glycolipid molecules that are present on the surface of certain tumor cells.

The vaccine being developed by the Cuban researchers have shown promise in the treatment of kidney cancer, lung cancer, breast cancer and melanoma, all cancers with a poor prognosis of survival once they have spread. I left there very impressed with the quality of basic research with these technologies.

I also left there very frustrated. The truth of the matter is that while the research results that I had seen from the Cuban research institutes are very promising, unless we are permitted to test and evaluate these approaches in the United States using the rigorous standards for medical research that are customary here, we won't really know how effective they may be in treating cancer. And importantly, unless subjected to the development and approval process required by the U.S. FDA, any products that emerge from the Cuban research will not be available to cancer patients in the United States.

To further underscore the potential merit of medical research being conducted in Cuba, it is my understanding that a vaccine that was developed by Cuban researchers for the prevention of meningitis in children is currently being tested in international clinical trials.

Further, I understand that the U.S. Department of the Treasury gave approval for a U.S. company to participate in the development of this important vaccine. This is a great example of a decision in

which the well-being and health of our children was made the highest priority.

Based upon my many years of experience in this field, it appears Cuban scientists have made potential important advances in cancer therapies. I believe that all U.S. citizens suffering from cancer deserve access to potentially life-saving therapies, and that such therapies should undergo the rigorous development and approval process of the U.S. FDA.

Senators, I urge you to take the appropriate legislative steps to help us to thoroughly evaluate every possible option to save the lives of U.S. citizens afflicted with cancer. U.S. oncologists should be given access to the broadest possible armamentarium of options to treat cancer.

I thank you all for your continuing support of cancer research. Let us not stop short of our goal by restricting the evaluation of medical advances that have the potential to save lives.

Senators, create this bridge for the benefit of cancer patients, their families and friends. This is more than good public policy; it is the right thing to do for cancer patients desperate for new cancer treatments.

Senator DODD. Doctor, thank you very much.

[The prepared statement of Dr. Morton follows:]

PREPARED STATEMENT OF DONALD L. MORTON, M.D., MEDICAL DIRECTOR AND  
SURGEON-IN-CHIEF, JOHN WAYNE CANCER INSTITUTE

Thank you for that kind introduction, Senator. I appreciate the opportunity to appear before this committee and provide comments and perspective on the topic of advances in medical research in Cuba. As a cancer surgeon and cancer immunology researcher, as well as a melanoma survivor, I have tremendous personal and professional interest in seeing that potential advances in the treatment of cancer from researchers located throughout the global community, including Cuba, be made available for the benefit of cancer patients in the U.S. and elsewhere. Politics should not get in the way of our being able to take full advantage of life-saving treatments—whatever the origin.

As Senator Dodd mentioned, my work in the field of cancer and immunology began over 40 years and 600 scientific articles ago. Ever since I became a physician, I've studied how the immune system can be stimulated to fight cancer. From my early work at the National Institute of Health, to UCLA, and now at the John Wayne Cancer Institute, my focus on cancer has been clear: trying to understand what happens to the immune system during cancer progression and to develop a rational basis for cancer immunotherapy with the goal of impacting the course of the disease to help patients live longer.

I have dedicated my career to advancing research and development of promising technologies, such as vaccines, for the treatment of cancer. Ultimately, I believe this will lead to breakthroughs in cancer treatments and potentially provide cures. Today, we appear to be on the threshold of translating cancer immunology research into real treatments for difficult cancers. With over half a million people dying of cancer every year in the U.S., at a public health cost of more than \$100 billion, the search for treatments and cures must continue to be purposeful—and it must be relentless.

No doubt, cancer has touched the lives of everyone in this room today in one form or another, and I know that this distinguished group is working hard to promote the advancement of cancer research and treatment. Among a long list, I am aware that Senator Helms has jointly sponsored a bill to require health plans to cover the cost of colonoscopies for persons older than 50 to improve early detection of colorectal cancer; Senator Boxer is a strong supporter of the U.S. Department of Defense Breast Cancer Research Program, including funding for the Lawrence-Livermore labs to use laser expertise for breast cancer research. This kind of public policy in support of advancing research targeted at early diagnosis and treatment is crucial in our effort to conquer cancer. Today, we need your support more than ever.

I currently lead the John Wayne Cancer Institute as the Medical Director and Surgeon-in-Chief. I had the privilege of caring for John Wayne himself during his

battle with cancer. JWCI has emerged as one of the world's leading cancer research centers, thanks to the support of the National Cancer Institute and many generous private donors. Each year, patients travel from more than 40 foreign countries and 48 states to receive treatment from John Wayne physicians, many of whom are listed among the world's top cancer specialists. The John Wayne Cancer Institute currently sponsors the third largest surgical oncology fellowship training program in the U.S. In terms of the amounts of peer-review funding, the JWCI is in the top 6% of the 2500 research centers receiving NIH funding. More cancer patients have received cancer vaccines on research protocols at the JWCI than any other research center in the world.

My own research efforts are currently focused on the development and improvement of therapeutic cancer vaccines, which are designed to stimulate the immune system to fight cancer. As a result of over thirty years of research, a vaccine I developed for the treatment of advanced stage melanoma, a rapidly progressing and deadly form of cancer, is being studied in large phase III pivotal international clinical trials, the final step before FDA approval. I serve on the board of directors and as a consultant to a biotechnology company (in which I have a financial interest) that is working to finalize the development of this vaccine and obtain regulatory approvals around the world to make the vaccine available to patients.

While on a day-to-day basis I am a surgeon, I strongly believe in the importance of basic research, and that's what brings me here today. I recently returned from a licensed scientific exchange to Cuba—my first visit there, and with all proper clearance received from the Treasury Department. I have also had the good fortune of having a Cuban research fellow visit the John Wayne Cancer Institute, during which time we gained knowledge of Cuban scientific research efforts. As well, during this trip, I engaged in a rewarding academic dialogue with Cuban scientists. While I've known about the quality of their work through published articles for some time, I was impressed by the depth and sophistication of their research, especially as it relates to cancer immunology.

I learned that the Cuban researchers have made some interesting and novel discoveries and have achieved significant progress in the development of cancer immunotherapies. Many of these discoveries are protected by patents, which have been issued in the United States, Europe and other countries. In addition, several of the immunotherapy products that they have developed are being tested in clinical trials in the United Kingdom and Canada.

One type of immunotherapy product being developed by the Cubans is based on monoclonal antibodies, which are immune system-derived proteins of exceptional purity and specificity that are being used to target cancer like "smart bombs". This is an area of significant interest for cancer researchers. The four monoclonal antibody products that have been approved in the U.S. for the treatment of certain types of cancer have demonstrated improved efficacy with reduced side effects compared to previous standards of care.

Cuban researchers have also focused on developing therapeutic cancer vaccines that are designed to stimulate the immune system to develop antibodies that target epidermal growth factor receptors (EGFR) and gangliosides, molecules that are present on the surface of certain tumor cells. The vaccines being developed by the Cuban researchers have shown promise in the treatment of head and neck cancer, lung cancer, renal cell cancer, breast cancer and melanoma among others, all cancers with a poor prognosis for survival.

I left there very impressed with the quality of basic research with these technologies. I also left there very frustrated. The truth of the matter is that, while the research results that I have seen from the Cuban research institutes are very promising, unless we are permitted to test and evaluate these approaches in the U.S., using the rigorous standards for medical research that are customary in the U.S., we won't know how effective they may be in treating cancer. And, importantly, unless subjected to the development approval processes required by the U.S. Food and Drug Administration, any products that emerge from the Cuban research will not be made available to cancer patients in the U.S.

To further underscore the potential merit of medical research being conducted in Cuba, it is my understanding that a vaccine that was developed by Cuban researchers for the prevention of meningitis, an infectious disease that causes substantial mortality in children, is currently being tested in international clinical trials. Further, I understand that the U.S. Department of the Treasury has given approval for a U.S. company to participate in the development of this important vaccine. However, I also understand that it took two years for the approval to be forthcoming and it is my hope that these kinds of delays can be eliminated by Congressional action where life-saving vaccines are at stake. This is a great example of a decision in which the health and well-being of our children was made the highest priority.

Based upon my many years of experience in this field, I can assure you that it is tremendously difficult to develop therapies that can directly affect solid tumor cancers—and the Cuban scientists appear to have made important advances in precisely this area. I believe that all U.S. citizens suffering from cancer deserve access to potentially life-saving therapies, and that such therapies should undergo the rigorous development and approval process of the U.S. Food and Drug Administration.

Senators, I urge you to take the appropriate legislative steps to help us to thoroughly evaluate every possible option to save the lives of U.S. citizens afflicted with cancer. U.S. clinical oncologists should be given access to the broadest possible armamentarium of options to treat cancer, and U.S. cancer patients deserve nothing less than the very best therapies available in the world.

Thank you all for all your continuing support of cancer research. Let us not stop short of our goal by restricting the evaluation of medical advances that have the potential to save lives. Senators, create this bridge for the benefit of U.S. cancer patients, their families and friends. This is more than good public policy; it's the right thing to do for U.S. patients desperate for new cancer treatments.

Senator DODD. Dr. Bridges.

**STATEMENT OF KENNETH R. BRIDGES, M.D., DIRECTOR, JOINT CENTER FOR SICKLE CELL AND THALASSEMIC DISORDERS, BRIGHAM AND WOMEN'S HOSPITAL, BOSTON, MA**

Senator DODD. We welcome you to the committee. Did I pronounce thalassemic properly? Is that—

Dr. BRIDGES. It's thalassemic.

Senator DODD. I am obviously a lawyer, not a doctor talking here.

Dr. BRIDGES. Thank you very much, Senator Dodd. I appreciate the opportunity to come before the subcommittee and to discuss some of the issues involving today not thalassemia but sickle cell disease. And speaking after a discussion of cancer, I think that it is somewhat of a disadvantage because most people have never heard of sickle cell disease; and yet it is the first disorder for which we knew the genetic basis.

Sickle cell disease is the ultimate molecular disorder in terms of its designation. And it was discovered—now those things roll off as you probably know almost weekly if you read the scientific journals about a new gene which has been discovered for a particular defect.

Sickle cell disease, the defect was discovered in 1956. And today we still have no cure for this disorder. It is a disorder that primarily affects black Americans because of its—and it is a historical factor relationship to malaria which is another story. But nonetheless, the progress that we've made over the years toward controlling the disorder has been very important.

But curing the disorder and controlling the disorder are really different. We at some point will have genetic engineering and we will be able to cure this disorder. In the meantime, projects, treatments that involve control for this disorder that affects 70,000 people in the United States and produces severe disability. Severe pain is the major manifestation, and severe loss of longevity because people's lives are shortened to an average of about 40 years if they have sickle cell disease.

Working with the kind of physician network that exists in Cuba would allow us to investigate more quickly the drugs, the materials that are now coming into the market that we have to understand their value in order to allow American citizens to benefit from these advances.

I think that the bill which has been put before the Senate or before the subcommittee, I should say, for consideration is extremely important because it would allow us to take advantage of some very, very important aspects of the medical care in Cuba, which by the way is very good in terms of their basic medical care.

One of the things we have to carry out are trials. And in order to carry out a trial you have to know where the patients are. And in this country we don't have a disease registry for sickle cell disease. In Cuba, there is. And therefore we know where the patients are, or they know where the patients are.

We are really hampered by the inability to enroll patients in trials. And if we were able to cooperate with Cuba, in my statement I mentioned a most promising drug which has come along, hydroxyurea. When we conducted the study in the United States, 23 centers throughout the United States were engaged to enroll 300 patients.

We could have enrolled half of those patients in Cuba and moved the study along much faster. That kind of cooperation is really what we need.

The other issue is the fact that most of the care networks for patients have been developed for urban patients. And we now know that more than half the people in this country with sickle cell disease are not urban. They are in the rural areas throughout the south and other places. How do we deal with that.

Cuba has developed programs that address that kind of issue because that is exactly their patient profile. So rather than reinventing the wheel, there are things that we can do through cooperation that will allow us to benefit Americans to move more quickly to the table treatments and therapies as well as provide more effective service for Americans afflicted by this terrible and debilitating disorder.

Senator DODD. Very good. And we will come back with some questions for you shortly, but we appreciate your being here and your eloquence on the subject matter.

[The prepared statement of Dr. Bridges follows:]

PREPARED STATEMENT OF KENNETH R. BRIDGES, M.D., DIRECTOR, JOINT CENTER FOR SICKLE CELL AND THALASSEMIC DISORDERS, BRIGHAM AND WOMEN'S HOSPITAL, BOSTON, MA

THE NEGATIVE IMPACT OF THE U.S. EMBARGO OF CUBA ON AMERICANS WITH SICKLE CELL DISEASE

Sickle cell disease is one of the most common genetic disorders in the United States, affecting about 70,000 people. Despite a thorough understanding of its genetic basis, no cure exists. Sickle cell disease produces repeated episodes of tremendously severe, incapacitating pain throughout the body. The condition can damage nearly every organ in the body, with sequelae ranging from strokes in children as young as 2 years of age to heart, liver and lung failure. The disorder occurs primarily in black Americans, shortening the life spans of its victims to 42 years for males and 48 years for females.

Treatment of sickle cell disease has improved significantly in the past 15 years, propelled by landmark investigations funded by the National Institutes of Health. Chronic penicillin treatment in young children prevents morbidity and mortality from overwhelming bacterial infections. Investigators found that the drug, hydroxyurea, can prevent sickle cell pain episodes and even reduce mortality from the disorder. Hydroxyurea remains the only medication that can prevent complications from sickle cell disease.

Despite these advances, people with sickle cell disease still have hard lives and face formidable peril. A workshop sponsored by the National Heart, Lung and Blood

Institute, the Maternal and Child Health Bureau and the Office of Behavioral and Social Science Research on June 13 and 14 addressed *The Unmet Health Care Needs of People with Sickle Cell Disease*. Experts from around the country along with patient advocates charted the challenges that still hobble people with the disorder, both literally and figuratively. A major question raised at the event was how investigators and health care providers could speed treatment development while a cure is being developed.

The Pugwash Conferences workshop on *Medical Research in Cuba: Strengthening International Cooperation*, held in Havana, Cuba 15-17 February 2001 produced information directly relevant to issues raised in the recent workshop in Bethesda. The population of Cuba is heterogeneous and includes many people of African heritage, thirteen percent of whom have sickle cell trait. The health care providers in Cuba have many resources that would allow a fruitful cooperative effort between our country and theirs.

Cuba has a well-established patient care network. Excellent facilities for patient trials exist both in Havana and Santiago de Cuba. Cuba has a registry of patients with sickle cell disease, which is a valuable tool in clinical investigation. Knowledge of the whereabouts and current management of patients is essential to clinical investigation. Important investigations become unwieldy and sometimes impossible without these logistics.

An example is the NIH-sponsored *Multicenter Study of Hydroxyurea in Sickle Cell Anemia* that proved the value of the drug to adults with sickle cell disease. The dispersed nature of patients in the U.S. combined with the absence of a disease registry forced the principal investigators to include 23 centers in the trial and spread the enrollment of the 300 patients over a period of years. Although the trial was officially closed in 1995, the need for follow-up continues to this day. As many as half the patients in this enormously important study could have been enrolled at a single site in Cuba, thereby accelerating a study that has been pivotal to victims of this disease.

Currently, a large number of new therapies for sickle cell disease are reaching the stage of clinical trial. A research bottleneck is developing because no patient can participate simultaneously in more than one trial. Without a sickle cell disease registry or some other mechanism that allows them to reach out beyond their own local populations, some treatment and investigation centers in this country are *literally running out of eligible subjects*. Disease of the hip joint cripples many people with sickle cell disease, sometimes leaving them confined to wheel chairs. Investigators at the Children's Hospital of Oakland have coordinated a study to determine the best way of treating or preventing the hip problems. Too few patients have been enrolled over the course of four years to make any recommendations in large part due to the lack of a network for clinical trials.

Cooperation between the U.S. and Cuba would not be a one-way street with respect to knowledge, expertise and experience. The Bethesda workshop identified care coordination of rural patients with sickle cell disease to be one of the glaring deficiencies of our current medical system. The sickle cell disease centers exist in major cities such as Boston, Atlanta, New York and Los Angeles. Providers in this country must develop ways of serving the needs of people who are outside the urban centers.

The network developed in Cuba deals effectively with rural people who constitute a significant fraction of the population affected by sickle cell disease. A cooperative program between American and Cuban physicians would eliminate the necessity of reinventing the wheel in the U.S.

Despite knowledge of the precise genetic defect that produces the sickle cell gene mutation, we do not know key aspects of the process that leads to disease expression. Ten-percent of children with sickle cell disease have strokes. What differentiates these children from the 90% who dodge this often-lethal complication? Currently we have no solid leads.

Cooperative work with Cuban physicians could open new avenues and point the way to new treatments. Knowledge of the patient population would allow the selection for study of children with sickle cell disease who differ primarily by a history of stroke. Careful examination by laboratory and genetic testing could allow isolation of the factors responsible for stroke. With this information, stroke prevention would be an attainable goal.

Lifting the economic embargo, at least as it applies to medical care, would allow American and Cuban physicians to work together on the problems of sickle cell disease. Our society values each human being as an irreplaceable gift to the world. American and Cuban physicians alike want nothing more than a chance of preserving our most valuable asset: the health of our people.

Senator DODD. Dr. Rasenick, we thank you as well for joining us. You are an honorary Connecticut resident I guess, having graduated from Wesleyan University and Yale University Medical School; so we will temporarily claim credit for you.

**STATEMENT OF DR. MARK M. RASENICK, PROFESSOR OF PHYSIOLOGY AND BIOPHYSICS, AND PROFESSOR OF PSYCHIATRY; DIRECTOR, BIOMEDICAL NEUROSCIENCE TRAINING PROGRAM, UNIVERSITY OF ILLINOIS CHICAGO, COLLEGE OF MEDICINE, CHICAGO, IL**

Dr. RASENICK. Thank you. And thank you for inviting me, Mr. Chairman. I'll summarize my remarks and leave the rest in the record. My day job is a neuroscientist. I study the molecular and cellular basis of the brain with the hope of understanding depression, how it works and how we can fix it.

But I am also very interested in using science for peace and cooperation. And I organized a meeting in Cuba, a neuroscience meeting in Cuba in which we had 20 neuroscientists in Havana, 2 years ago. It was the first meeting of its kind and it really began to bring scientists together.

I made six trips to Cuba over the last 4 years, and I have met with most of the leaders of the Cuban biomedical research community. I am familiar with both their capabilities and the challenges they face.

First, I would like to discuss some of the advances made by Cuban scientists which could benefit those of us here in the United States. And I'll start with, I'll break them in a few categories. The first point is going to be clinical immunology, interferons and vaccines.

We've heard from Dr. Morton about vaccines, and it is noteworthy that only the Cubans have developed a meningitis B vaccine. In addition to that, the Cubans are really at the forefront of interferon research. Interferons are proteins which can be used to kill cancer cells, kill viruses and suppress the immune system.

In the United States, we've used them for therapy for hepatitis and therapy for multiple sclerosis. The Cubans are even experimenting with using interferons as a treatment for schizophrenia.

Another thing I would like to talk about is low-cost brain imaging. Now, the Cubans have made their own MRI machines because no one would sell them MRI machines. And they have used very small magnets, and they operate them with a personal computer, yet they get decent images.

Now, if we were able to import this technology, two benefits would be the development of smaller, lighter and cheaper MRI machines which could benefit rural America. And also if we were able to get the computer algorithms that they have been able to use, we could make our more powerful machines even more powerful and get much better resolution on our images.

The Cuban Neuroscience Center has also developed very low-cost brain imaging techniques using electroencephalography or EEG. That is basically putting a bathing cap with a bunch of electrodes over the head and a readout of the electrical activity of the brain.

They have been able to use computers to map that activity so that they can get an image of the brain. This is really cheap tech-

nology. And they have been able to use it to pinpoint damage from a stroke. By bringing this technology out to rural America and transporting by telephone line the computer files, we could have specialists in more concentrated and more sophisticated medical centers determine how a patient was affected. These doctors could indicate how to proceed in treating patients without having to transport them to the sites.

Dr. Leshner talked about Cuba biodiversity and Cuban natural products. And the Cubans have been pioneering using natural products for a variety of purposes. They have made a drug from sugar cane to treat both cholesterol and high blood pressure. And I guess it is sweet at the same time, which would be nice.

Senator DODD. Just won our case here.

Dr. RASENICK. And they have also made products from the marine organisms which Dr. Leshner was talking about, some of these are calcium channel blockers, which could be used to fight cardiovascular disease.

Dr. Bridges and Dr. Morton have talked about clinical trials. And U.S. companies often use offshore sites to test drugs, especially in the later stages of development. As Dr. Bridges indicated, Cuba has highly trained medical personnel; and extensive medical records are available. This really makes Cuba an ideal site for clinical trials.

Studies for new psychiatric drugs are currently being conducted in China by at least one U.S. drug company. And Cuba would be a much more palatable site. The benefits for both Cubans and Americans are significant.

Cuba is also developing a municipal system for clinical genetics. Now, this is the era of the genome. And when we have very sophisticated medical records where people are generically well-known, this really offers a possibility to collaborate with the Cubans in gene mining—understanding the genotype of a population and understanding which genes are responsible for which diseases. This could be very beneficial in bringing about new therapies, based on generic causes for identified disease.

I would like to specifically talk about S. 1017 and how that would facilitate the above technology. Title IV of section 403 of the Bridges to the Cuban People Act would allow for us to begin to profit from partnerships with Cuban bioscience and biotechnology.

We have heard today about how this would benefit us, and I will speak in a moment how it might benefit the Cubans. I want to reaffirm that this does not need to be the province of a single political party. In Illinois, our Republican Governor, George Ryan, has led two delegations to Cuba and is convinced that opening up trade is as good for Americans as it is for Cubans.

So what will S. 1017 do that will allow for mutual benefit? Well, title III, section 301(a) allows for increased cultural exchange and provides for scholarships. We've heard about that a moment ago.

I would like to urge you to change it a little bit because the bill does not allow for scholarships in biological or biomedical science. But I hope it can be changed. And if young Cuban nationals who engage in science went back, the excitement for the free exchange for ideas would be wonderful for Cuba.



And, finally, I'd like to address the importance of S. 1017 for the Cuban people. One of my Cuban colleagues once told me that the three great successes of the Cuban revolution were education, health care and scientific research, while the three great failures were breakfast, lunch and dinner.

S. 1017 would create markets for our farmers while assuring that Cuban children have adequate nutrition. I have spent many hours in psychiatric hospitals viewing patients who were suffering from the side-effects of older-generation antidepressant or antipsychotic drugs because they didn't have access to the newer drugs with a more benign side-effect profile.

Bridges to the Cuban People Act will not only help to ease their suffering but allow many of them to return to a normal life. We Americans have been carrying on a boycott against 11 million people for 40 years because of a hostility toward the government of Fidel Castro. The boycott serves to push Cuba closer to a two-class society, those who get dollars from their relatives versus those who don't. But it has had no obvious effect on the government.

We are told that we just need to keep the pressure on a little longer. As a scientist, I would never do the same experiment for 40 years if it didn't work. As Senators, I hope you realize the importance of heeding the needs of our children as well as children 90 miles off our shores.

We need to move forward toward that goal. And the passage of S. 1017 is a good start.

[The prepared statement of Dr. Rasenick follows:]

PREPARED STATEMENT OF DR. MARK M. RASENICK, UNIVERSITY OF ILLINOIS  
CHICAGO, COLLEGE OF MEDICINE

Thank you, Senator Dodd, for inviting me to testify before the subcommittee.

I am a Professor of Physiology & Biophysics, Professor of Psychiatry and Director of the Biomedical Neuroscience Training Program at the University of Illinois Chicago, College of Medicine. In addition to teaching, I have a research program that has been funded by the National Institute of Mental Health, the National Institute of Aging and other Federal Agencies since 1984. My research concerns how structural properties of nerve cells are altered by neurotransmitters. We hope that this will lead to understanding the molecular and cellular basis of depression and of certain dementias such as Alzheimer's Disease. Further, we are studying how antidepressant drugs work and we hope to use this information to develop more effective therapies for depression and related psychiatric disorders.

In addition to science, I have been active in public policy. Two years ago, I was on sabbatical and served as a Robert Wood Johnson Fellow with the Senate Committee on Health, Education, Labor, and Pensions and with Senator Edward M. Kennedy, (D Mass.). Another policy issue in which I am involved is using biomedical research as an instrument of peace and social change. I am working with the Society for Neuroscience to help develop a Neuroscience Research infrastructure in Vietnam and have founded the "Interamerican Consortium on Basic and Clinical Neuroscience". In this latter capacity, I organized a binational meeting on U.S.-Cuban neuroscience cooperation which was held in Havana two years ago. During my six trips to Cuba over the past four years, I have met with most of the leaders of the Cuban biomedical research community. I am quite familiar with both their capabilities and the challenges they face.

My testimony today will address some of those biomedical advances as well as the challenges faced by Cubans generally and Cuban scientists particularly.

First I would like to discuss some of the advances made by Cuban scientists which could benefit residents of the U.S.

1. CLINICAL IMMUNOLOGY: INTERFERONS AND VACCINES

Interferons are a family of proteins which have been shown to be cytotoxic (kill cells), immunosuppressive and antiviral (depending upon the type of interferon). Sig-

nificant research was done with interferon and it was hailed as the next cure for a variety of human cancers. It turned out that interferon was useful against hairy cell leukemia, but otherwise was ineffective for cancer chemotherapy. Applied interferon research was generally abandoned except for the efforts in Cuba. Interferon-based drugs have recently been used successfully to treat multiple sclerosis and hepatitis and may have a role in treating other neurodegenerative disorders. The Cubans have even been testing interferon as a treatment for schizophrenia. Cuban interferon technology could be paired with U.S. research to aid in new drug discovery efforts.

Cuban science has been successful in the development of a vaccine against *N. meningitidis*, the organism that causes meningitis B. The current meningitis vaccine available in the U.S. (used for college students in dormitory living situations) does NOT protect against the B serotype. SmithKline Beecham has secured an agreement to manufacture and distribute this vaccine, and is currently working with it in Europe. Havana's Findlay Institute, where this was developed, has a number of other products in various stages of development. The ability to cooperate with U.S. drug companies, which can stage large clinical trials, will be of significant benefit both to Americans at risk for those diseases as well as the companies which participate in development of those therapies.

## 2. LOW COST BRAIN IMAGING

The Cubans have developed technology which allows them to use a small and relatively weak magnet (about tenfold lower in strength than magnets used in MRI machines in the U.S.) to get reasonably good images of the brain and various body parts. The Cuban MRI machines are operated with a personal computer (as opposed to the large computers needed for U.S. MRI instruments). Two benefits of importing this technology are: 1) development of smaller, lighter and cheaper MRI instruments which can be installed in more rural settings and in parts of the world where funds for large, sophisticated MRI instruments are not available, and 2) adapting novel computer algorithms to larger MRI instruments in order to improve resolution.

The Cuban Neuroscience Center has also developed sophisticated Electroencephalographic (EEG) Imaging techniques. Using a 128 lead (we do EEG with 21) EEG, the Cubans have developed both equipment and computer algorithms which create an image of brain activity at very low cost. They have used this not only for epilepsy, but also to pinpoint the area of damage after a stroke with greater accuracy than a CAT scan. This technique could be used easily in rural locations which could transmit the computer files for analysis at a referral center.

## 3. CUBAN NATURAL PRODUCTS

Cuban scientists have isolated a product from sugar cane which appears to lower cholesterol AND inhibit clotting. This compound might prove to be an ideal one to treat atherosclerosis, as it would inhibit the formation of cholesterol plaques as well as preventing the clotting which leads to blockage of blood vessels. Many U.S. patients are currently treated with two drugs for these purposes. Cubans have also isolated several interesting compounds from local marine life. These compounds are toxins which marine animals use to immobilize prey. Some of these compounds have very specific actions on certain types of ion channels and the potential for drug development is intriguing. (Note that specific inhibitors of calcium channels are in widespread use for the treatment of cardiovascular disease).

## 4. SITES FOR CLINICAL TRIALS AND COLLABORATIVE RESEARCH

U.S. drug companies often use offshore sites to test drugs, especially in the later stages of development. Trials must be conducted by highly trained individuals and work best if the patients have a well-documented medical history. Cuba, with its highly trained medical personnel as well as the extensive medical records available for most patients, makes it an ideal site for doing this. Studies for new psychiatric drugs are currently being conducted in China by at least one U.S. drug company. Cuba would be a much more palatable site and the benefits for both Cubans (funds to defray costs of the trials and the availability of the newest drugs) and Americans (an ideal study population very close to the U.S.) are significant. An interesting new area of development is the investment Cuba is making, in developing a municipal system of clinical genetics. The National Center for Medical Genetics is being upgraded, and dozens of additional clinical geneticists have been trained in the last year. In the genome era is this a valuable asset for research, that is supported by the extensive system of primary care (and extensive and accurate medical records) in Cuba. This offers the possibility to collaborate in "gene mining" with the hope of identifying genes responsible for various human maladies and identifying novel

drug targets for those diseases. Cuba offers unique advantages for this kind of research, and we should be actively collaborating with them on it.

*Provisions of S. 1017 which will facilitate access to the above-mentioned technologies*

Title IV section 403 of S. 1017 (Bridges to the Cuban People Act) would allow for us to begin to profit from partnerships with Cuban Bioscience and Biotechnology. We have heard today about how this would benefit us and I will speak in a moment about how it will benefit the Cubans. This is not an issue that needs to be the province of a single political party. In Illinois, our Republican Governor, George Ryan, has led two delegations to Cuba and is convinced that opening up trade is as good for Americans as it is for Cubans.

What else will S. 1017 allow for that will be of mutual benefit? Title III, Sec. 301(a) allows for increased cultural exchange and provides for scholarships for Cubans to study here. I have interacted closely with young Cuban neuroscientists. Most are clinically trained and would love to spend two years learning basic neuroscience. At this point, the bill does not allow for scholarships in Biological or Biomedical science, but I hope that this can be changed. Young Cuban Nationals who engage in this activity will bring back not only knowledge, but an excitement for the free exchange of ideas. It is equally important that senior scientists and clinicians engage in mutual exchange programs and you might consider modifying S. 1017 to help promote this as well.

*S. 1017: benefit to the Cuban people*

Finally, I would like to address the importance of S. 1017 for the Cuban people. One of my Cuban colleagues once told me that the three great successes of the Cuban revolution were Education, Health Care and Scientific Research while the three great failures were Breakfast, Lunch and Dinner. S. 1017 would create markets for our farmers while assuring that Cuban children have adequate nutrition. I have spent many hours at psychiatric hospitals viewing patients who were suffering from side effects of older-generation antidepressant or antipsychotic drugs, because they didn't have access to the newer drugs with a more benign side-effect profile. S. 1017 will not only help to ease their suffering, but allow many of them to return to a normal life.

We Americans have been carrying on a boycott against 11 million people for 40 years because of a hostility toward the Government of Fidel Castro. The boycott serves to push Cuba closer to a two class society (those who get dollars from their relatives vs. those who don't), but has had no obvious effect on the government or the popular support for that government. We are told that we just "need to keep the pressure on a little longer". As a scientist, I would never do the same experiment for forty years if it didn't work. As senators, I hope that you realize the importance of heeding the needs of both our children as well as those children 90 miles off our shores. We need to move forward toward that goal, and passage of S.1017 is a good start.

Senator DODD. Thank you very, very much. I thank all four of you. Dr. Morton, I know you have got a flight to catch, so I am going to, with the indulgence of your colleagues here, ask you some questions. Then if you have to leave, you just head right off. I will express again our deep gratitude for your coming a long way to be here.

And I think the big fellow would be proud of you here, John Wayne, in coming to talk about these issues. Not only did he suffer at the end of his life of cancer, but I think you have a way of kind of blowing through all of this and getting to the heart of things pretty quickly. So I am pleased you are here.

I sit on the Health and Education, Labor Committee, so we deal with a lot of FDA issues and the like; so I am fairly familiar as a layperson with the notion of clinical trials. But I suspect a lot of people may not be.

The importance of the value of how they are conducted, you touched on this a bit already but I wonder if you might just expand upon this, in terms of new treatments why the clinical trial issue is so important. I know others of you have opinions on this but let

me ask Dr. Morton his views on it, why this is so critically important.

Dr. MORTON. Well, the FDA and regulatory agencies throughout the world require that any new therapy be proven both safe and effective. And in order to prove that, one has to do with very few exceptions randomized trials where patients are randomly allocated to be treated with the new therapy versus the standard therapy or if there is no standard therapy, compared to no therapy or a placebo.

And these trials are carried out at multiple centers throughout the world. Because our vaccine, that I am absolutely convinced works at the John Wayne, but in order to be a benefit to people throughout the world, one must show that it works everywhere. And so there has to be multiple centers involved in the trials.

And this is a, depending particularly in cancer where we are talking about a disease that many patients because of standard therapy may be cured by that standard therapy, then we have to compare the incremental effect. And often a great home-run will be considered saving 10 percent more patients with that particular treatment.

So this requires large numbers of patients to be entered into these trials and participate in them in order to have unequivocal evidence of the effectiveness of that particular new drug.

Senator DODD. I appreciate that. How did you find out about the Cuban work on EGF vaccine?

Dr. MORTON. Well, actually it was at the American Society of Clinical Oncology meeting last year. There were two presentations by the Cubans. And it was really one of the more exciting new developments.

And being interested in vaccines, I entered a dialog with the Cuban investigators, and we had some of the young Cuban scientists visit the John Wayne, who brought some of their antibodies and research reagents to our laboratories that we had an opportunity to test them. And then they invited me to come back for a visit. And that was the reason that, how I learned about it.

Senator DODD. Tell me what do you need to do in order to get the EGF vaccine in clinical trials in the United States?

Dr. MORTON. Well, I think—

Senator DODD. And how quickly do you think you know whether or not the vaccine is as promising as it appears.

Dr. MORTON. That is right. We need to have a commercial relationship with the Cuban institute that developed it that would allow us to import it into the United States and test it on U.S. patients. I had been looking at new approaches to cancer treatment for some 40 years on NIH committees and other things, and I'll have to say that these are promising approaches.

But it is not until we have the opportunity to evaluate them by U.S. standards can we really know for certain that they are going to be as effective and as promising as the preliminary data from the Cubans suggests.

Senator DODD. And under existing law, the hurdles there, the normal hurdles that one faces with obviously trying to do this with any product, vaccine being developed offshore, there are additional ones here that you face.

Dr. MORTON. Well, yes. First of all, you have to get into the United States. And then the U.S. investigator has to apply to the FDA for a new drug investigational ruling to test it in the United States and describing the way that its test will be done and so forth.

And the FDA is interested in drugs that can be—the whole purpose of the FDA development process is to develop new drugs for American patients.

Senator DODD. Right.

Dr. MORTON. So in order to do that, you have to be able, the American patients must have the potential to benefit from that involvement process.

Senator DODD. Now, you've been at this a number of years in the medical field. Just give us sort of a quick cursory impression you have of lab facilities, equipment, competency. I bet you have seen a lot that aren't so good, right here at home probably and elsewhere.

Dr. MORTON. Well, you know, I went there expecting to see a third-world country. And I was really surprised by the sophistication of the science and the equipment and the modern technology and approaches that I found.

I also found the Cuban scientists to be very forthcoming and shared openly the results of their research with me and things that had not been published yet. So I came away realizing that this is an untapped resource in the fight against cancer, and that with proper collaboration and interaction, we can more rapidly move this forward.

Senator DODD. Well, I thank you. And there may be additional questions we may submit to you, but I do not want you to miss your flight. We are watching the clock up here. You have got to go to Dulles.

Dr. MORTON. I think it is too late. So I'll remain.

Senator DODD. Let me go to you, Dr. Leshner, if you have got a train. But I know that the American Academy for the Advancement of Science is actively promoting the rights of scientists for traveling to meetings, research exchanges. We have often heard that Cuban scientists have been denied visas to travel to the United States. I wonder if your organization has documented that has it gotten any better or worse in the last couple of years.

Dr. LESHNER. Of course it is difficult for us to really know the answer to that question. I think that the bidirectional problem is the cumbersome of the processes that prevent us from, us as a scientific community from understanding how you go about forging collaborations and what the rules are going to be.

We don't have specific data of course on how many entry visas have been denied. But there have been examples of whole conferences that have been intended for example to focus on environmental problems in Cuba. And those have had to be canceled because Cuban scientists either were not allowed to leave Cuba or were not allowed to enter the United States.

Senator DODD. Well, keep an eye on that. We would like to know. That is one of the issues we are trying to break through here. I wonder, by the way, I did not ask Dr. Morton here, I realize it is not his specialty per se although, Dr. Rasenick, you may have more

because of your focus on the biomedical areas, but I just wonder in your travels there, conversations and so forth, we have had allegations raised, obviously you may have read about them recently involving the dubious capabilities and the raising the specter that actually Cuba may have been involved in the production or developing technologies in the biological fields of weapons of mass destruction whether it is chemical or biological weapons.

Secretary Bolton made some pretty dramatic remarks in his speech that provoked a lot of questions. We had a hearing here on the subject matter not too long ago. I am just wondering in your travels, and I realize you are not an inspector, per se, is there any information you have picked up that we ought to know about here which could shed light on the accusations at all that you are aware of?

Dr. RASENICK. Do you want me to answer that?

Senator DODD. Yes.

Dr. RASENICK. I have wandered freely through these laboratories and no one has stopped me in any incidence wandering the halls on a regular basis.

We could also say many American drug companies have the capability of bioterrorism because they are growing large amounts of bacteria or viruses, which is what the chemists are doing in order to make vaccines. To make vaccines, you need to grow bugs. But these companies are not making weapons.

It certainly seems like the Cubans are growing bacteria and viruses toward commercial interests rather than to make weapons. I would not like to accuse anyone without real data, and there is no evidence that the Cubans have made bioweapons.

One other thing that is noteworthy is that if they were going to make weapons for germ warfare, would they really want to unleash it on a country that is 90 miles away from them? That would be counter productive.

They are a little too close to really engage in that kind of thing with us as the target. I cannot state, categorically, that the Cubans are not making weapons, but the administration has no data that they are.

Senator DODD. Well, there is a difference between an American pharmaceutical company and the Government of Cuba.

Dr. RASENICK. Of course. But I am saying that just growing a lot of bugs does not make one a purveyor of bioweapons.

Senator DODD. I understand your point. And I tried to make a similar analogy but I want to also make a distinction that there is a vast difference between motivations. We have treaties with other countries. The former Soviet Union, we now know, that despite treaties to the contrary they may have substantial quantities of highly contagious biological weapons or chemical weapons that were produced during the tenure.

Now, we have no evidence that was the case here yet except the dual capability. But I was curious as to whether or not you picked up anything in your travels that would show—

Dr. RASENICK. No one has ever tried to stop me from looking at anything and I have no suspicion.

Senator DODD. Withholding drugs from Cuba, let me stick with you, Dr. Rasenick. Cuba has been accused of withholding drugs to

give foreigners, to give them to the foreigners and Cuban elite in their country. Is that your impression based upon what you have seen during your visits?

If more U.S. drugs reached Cuba, do you believe that they would be available to average Cubans? Knowing the economic circumstances of an average Cuban where the pay amounts to \$8 or \$9 or \$10, I think it is a month, whatever it is, you start looking at the costs of some of these products. I do not know how Eli Lilly would survive if they were only going to charge for prescription drugs based on the monthly salary of an average Cuban.

So the issue is raised, if we allow the products to be sold there, are we going to deny them in fact to many, many average Cubans who will never be able to purchase them in the first place.

Dr. RASENICK. It is interesting that you use the example of Lilly, because one of the drugs that I am constantly asked to bring with me when I go to Cuba is Prozac. This is noteworthy for two reasons: One, this means that the Cubans clearly were not trying to counterfeit this drug.

Two, as I mentioned before, the "safe" antidepressants, such as Prozac, are things that the Cubans don't have access to. I was asked to bring it for friends, but those friends are in very high places. They are people who are highly placed in both the political and the science establishment—people who would clearly have access to drugs if there were preferential access in Cuba.

Yet that didn't seem to be the case. They would ask for enough samples, to take until my next visit. It is noteworthy that I was never asked to bring Viagra, but I assume that no Cuban male would ever admit a need.

Senator DODD. I am not going to touch that at all. That is a Pfizer product anyway.

Dr. RASENICK. Yes, that it is.

Senator DODD. Well, but the point being here, the legitimate issue raised with the exception of the ability of people other than through these dollar stores, I mean, I remember meeting a man when I was in Cuba, once meeting a person who was very, very upset because they had a sibling who was very sick and they needed—this was not a highly sophisticated product but they needed some antibiotics to deal with his flu-like symptoms.

And the only place they could get them were in the dollar stores. They were not available in the average Cuban pharmacy. And they did not have the dollars to get them.

And it was infuriating to them to sit there and know that in this case their brother was very sick and needed the help, and they could not get the help except if they could do it through areas that were only available to those who had the dollars or with the diplomatic corner in the lot.

And I do not know if that is just an anecdotal or whether or not that is in fact pretty standard for the average Cuban.

Dr. RASENICK. Even aspirin is in short supply there. And I found that giving people aspirin was something that was often appreciated enormously. But I also gave this to some of my friends who should have had access to drugs like that.

It really is very sad. There just isn't enough to go around. But it doesn't appear that there is preferential access because these people were asking for it as well.

Senator DODD. Is there any doubt in your mind that Fidel Castro can get these?

Dr. RASENICK. None whatsoever but my concern is 11 million other Cubans.

Senator DODD. Dr. Bridges, I want to thank you for what you are doing. And I don't know if you have been in touch or not with the Black Caucus in the House. I think they could very much benefit from some of your discussion.

You are right. What you are dealing with is in an area not as well-known as cancer but it is tremendously important. I want to raise the profile of what you are doing. I suggest we put you in touch with some people there, good friends of mine, see if we cannot heighten the interest in the subject matter.

But I wonder if you can envision an NIH study on sickle cell treatment using Cuba as a base.

Dr. BRIDGES. Thank you, Senator Dodd. That is a very—

Senator DODD. Would you participate in such a study?

Dr. BRIDGES. Yes, I would. In fact, Senator Dodd, I am currently working to develop collaborations between investigators in the United States and investigators in other countries. The other countries currently that we are working with are Egypt and Ghana; and I am also in contact with colleagues in Cuba over the possibilities of working there. Of course that is a much more difficult issue.

The reason I say Cuba's been very, very important is really two-fold. First, the organizational structure for medical care, although certainly there is no real comparison between the quality of medical care here in the United States, certainly if you have a severe illness versus Cuba, but basic medical care is very good and it is very spread out throughout the country.

And as a result, we by working together can begin to ask questions where we can look at the entire population, the entire population of people affected by sickle cell disease and then to begin to dissect apart the issues.

I just want to very briefly say that we often see medicine as being a science. And it is a science. However, there is also a part to the activity which is more art.

And there are aspects of the approach to sickle cell disease and other disorders that involve issues that we consider unmet needs. There was an NIH conference just last week, the 13th or 14th of June talking about unmet needs of people with sickle cell disease.

And again if I could just come back very briefly to the issue of people in rural areas, that was identified as a very serious problem for people with sickle cell disease. How do we get the services that exist in New York, in Boston, in Hartford, in Los Angeles; how do we get them to Muskogee in Oklahoma or how do we get them to a relatively isolated area.

These are problems that have not been addressed in our country yet are of course extremely important for those individuals who are affected. That is a problem or that is an issue which has already been addressed in Cuba. And through exchange we could certainly benefit tremendously.



Senator DODD. I also want to raise this issue of the patient registries which I think is a very important issue here to try and deal with this. I wonder if there is any way for us to try and replicate the patient registries that Cubans have established here at home in the United States.

Could that be done, No. 1; No. 2, to the extent there are difficulties doing it, are there things that the Cubans do in terms of how they develop patient registries in certain areas that we should learn from them by inviting some of their people here to set up to models there.

Dr. BRIDGES. Yes. With respect to the establishment of registries, that is an essential part to attacking any medical problem. We can establish patient registries in the United States with respect to sickle cell disease. It would be a very difficult task beginning from top down which is how we would think about it at this point. It is going out and finding all the people, registering them.

What has happened in Cuba, and it is very interesting, and that is that they have taken newborn screening. This is something which is very important for sickle cell disease. It is very important to know in a newborn if they have sickle cell disease. And almost all the states now screen for sickle cell disease.

Senator DODD. We had a hearing last week on newborn screening, we did, a committee I served on. And I am very interested about the great disparity on the number of disorders that various states test, some as low as four and others as many as thirty.

Dr. BRIDGES. Correct. Absolutely.

Senator DODD. But all of them do sickle cell.

Dr. BRIDGES. Almost all of them do sickle cell. And what that creates is a tremendous data base throughout the United States for newborns. We now know, and this has been going on anywhere between 5 and 12 years depending on the state, all newborns who have sickle cell disease.

However, because of the differences between the states, there is no communication. And the way the Cubans approached this was to begin with newborn screening, and as those children grew up, they had a registry in place.

And so those are some of the ideas and approaches that we could use in this country to capture information which is already there. It's not that we are going out and creating a new vehicle but we are capturing information which is already there.

Senator DODD. Well, I think that I can, again, I can make this the subject of a separate hearing. But you have been very, very helpful, all four of you. Dr. Morton had to try and catch that plane, I guess. And I want to thank you. I want you to stay in touch with us as well.

But for those who question the value of trying to maintain or expand on some of these contacts, whether it is cancer or sickle cell anemia or depression or neurosciences, three wonderful examples of work that is being done 90 miles off our shore that could be of great benefit to us here at home, not to mention others around the world.

And that is not an endorsement of a government's system here at all. But we have learned in various places how to walk and chew gum in these areas where we see emerging values. And aside from

the obvious benefits here, there is a longer term benefit I think in promoting democracy in Cuba.

And a transition would be peaceful enough so we could realistically talk about democracy coming to Cuba when the changes come as they inevitably will. So you play a very important role in that. And my hope would be in a matter of weeks or months, it would be terribly frustrating I would say that to have a newborn child or to have a parent who was suffering terribly and knowing that 90 miles off my shore lies maybe some of the answers that could make a difference here.

But because we are so bogged down in four decades of thinking that we deny ourselves the opportunity to improve the quality of life of people here.

That is not an endorsement of Fidel Castro. It is a simple statement that we have got to get smarter in the 21st century than I know we have been. So your testimony is tremendously helpful.

You are not politicians. You do not run for office. You are not here to set foreign policy. You are merely telling us with that within a few miles of our own shore there is some work being done that could save lives here at home.

And if we have not figured out how to be clever enough to take advantage of that without endorsing the government down there, then we had better figure out a way to do it sooner than later. So I thank you for coming here today.

Last, I want to invite our very patient panel. Nancy Chang is the senior litigation attorney for the Center for Constitutional Rights, and Mr. Ramón Humberto Colás, former co-founder of the Independent Libraries Movement of Cuba.

I want to thank both of you for being here today to share your views. I apologize for the wait that you have had, but I hope you have found it enlightening to listen to some other people share some thoughts.

I am going to put you on the clock here to limit your time to some degree. So we will begin with you, Ms. Chang, and with your testimony. And then again any and all statements you have we will make a part of the record.

**STATEMENT OF NANCY CHANG, SENIOR LITIGATION ATTORNEY, CENTER FOR CONSTITUTIONAL RIGHTS, NEW YORK CITY, NY**

Ms. CHANG. Thank you, Senator Dodd. Travel to Cuba without a license, either to engage in non-tourist activities for which a license is required by the Office of Foreign Assets Control [OFAC] of the Department of the Treasury, or to engage in tourist activities for which no license is ever available, constitutes a violation of the Cuban Assets Control Regulations and the Trading with the Enemy Act of 1917.

These violations expose travelers to a criminal conviction punishable by a fine of \$100,000 and a term of up to 10 years, and to a civil penalty enforced by OFAC of up to \$55,000.

The severity of the restrictions on travel to Cuba, coupled with the draconian civil and criminal penalties that may be imposed, interferes with the exercise of two fundamental constitutional rights: First, our freedom to travel, which is an essential part of

the liberty of which a citizen cannot be deprived without due process of law under the fifth amendment.

Second, the restrictions limit our rights under the first amendment to express our views, hear the speech of others, gather information, associate with others, and make up our own minds—rights that are absolutely essential to a democratic society.

During the cold war, the Supreme Court twice upheld government restrictions on travel to Cuba, finding them justified by national security reasons. But the geopolitical landscape has changed significantly since the Supreme Court decided these cases in 1965 and in 1984.

The collapse of the Soviet bloc more than a decade ago marked the end of the cold war and the halt of Soviet subsidies to Cuba. The tiny island nation of Cuba does not pose the realistic threat to national security that would justify these curtailments of our constitutional rights.

My office, the Center for Constitutional Rights, in 1998 established a Cuba Travel Project in order to educate the public about these restrictions. We have published a book, “Advice for Travelers to Cuba,” that has been in wide circulation and provides a user-friendly introduction to this arcane area of the law.

We currently have more than 400 individual clients who have been targeted for OFAC enforcement actions. Our clients represent a cross-section of America at its very best. They work in a wide variety of professions, and include students, professors, public service employees, doctors, and lawyers. They range in age from their teens to their eighties. They are spread across 35 states and the District of Columbia.

Senator DODD. During what period of time, Ms. Chang, have these 400 people come to your office?

Ms. CHANG. Since 1998 which is in the last 4 years.

Despite their many differences, they share in common the belief that the ties of friendship between people living in nations whose governments are at odds can promote peace between those nations.

Ironically, it is those who honestly report their travel to Cuba to the Customs Service on their return to the United States who are most likely to become the subject of OFAC enforcement action, while those who seek to evade detection nearly always succeed in their mission. In other words, OFAC enforcement is typically directed at the least culpable travelers, those who do not understand the travel restrictions or believe themselves to be in compliance with them, and those who are truthful.

Through our representation of these clients, the Center for Constitutional Rights has developed an understanding of why tens of thousands of Americans travel to Cuba each year without obtaining a license to do so from OFAC.

Most are simply not aware of or do not understand the complex laws and regulations that govern such travel. The regulations simply cannot be reconciled with our democratic values. Travel to all other socialist states including the former Soviet Union, the People’s Republic of China, Vietnam, and North Korea has long been permitted.

And those who apply for a specific license to travel to Cuba in order to engage in one of the twelve limited activities for which

such licenses may be granted consistently encounter roadblocks that prevent them from obtaining a license on a timely basis.

From all outward appearances, OFAC is engaged in a deliberate strategy of discouraging the filing of license applications and of constructively denying these applications through inaction and delay.

OFAC has never been required to account for its licensing decisions to the Congress much less the public. And the secrecy behind which it is permitted to operate allows for the introduction of bias, partiality inconsistency, and irrationality, which are anathema to our democratic process.

Particularly troubling are new OFAC guidelines on specific license applications for people-to-people educational exchanges. Among other things, these guidelines impose a political litmus test by making a factor of consideration whether the predominant portion of the proposed activities will be with persons or entities that are not acting directly or indirectly for or on behalf of the Government of Cuba.

In doing so, these guidelines contravene first amendment principles and, because the educational system in Cuba is state run, they would appear to impose limits on the ability of travelers to meet with and learn from Cuban university professors.

The Center's clients also provide a firm basis for understanding the hardships that travelers to Cuba endure, first at the hands of the Customs officials that they meet at the airport, and later at the hands of OFAC.

With disturbing frequency, our clients have reported that Customs agents were verbally abusive to them, screamed directly in their faces, accused them of being criminals, interrogated them in a belligerent and intimidating manner, dumped their belongings on the floor, detained them for hours on end, and coerced them into making statements about their trips by threatening to take away their passports or to keep them in detention or to not allow them to board a plane.

Then upon their return from Cuba, travelers who are identified by Customs are turned over to OFAC. We have seen penalties imposed in pre-penalty notices of \$7,500 for a single trip and as much as \$27,500 for those who have gone on three unauthorized trips.

As a practical matter, these restrictions will not be lifted until Congress enacts legislation such as the Bridges to the Cuban People Act.

I have examined section 201 of this proposed legislation and I am very pleased to see that it explicitly repeals the existing statutory authorization for the restrictions which are the Helms-Burton Act and the Trade Sanctions Reform and Export Enhancement Act of 2000.

Legislation that would simply cutoff funding to OFAC without at the same time legalizing travel to Cuba would not resolve the problems at hand.

This year marks the 40th anniversary of the Cuban Missile Crisis. Congress should seize this moment to take a crucial first step toward mending the cold war-era fences that separate us from one of our nearest neighbors.

Thank you again for inviting the Center for Constitutional Rights to address this matter. I ask that my full written statement be included in the record of this hearing.

Senator DODD. Thank you very much. And it will be.

[The prepared statement of Ms. Chang follows:]

PREPARED STATEMENT OF NANCY CHANG, SENIOR LITIGATION ATTORNEY, CENTER FOR CONSTITUTIONAL RIGHTS

Senator Dodd and Members of the Subcommittee, thank you for providing the Center for Constitutional Rights with this opportunity to discuss the pressing need for legislation ending governmental restrictions on travel to Cuba. First, I will discuss how the current travel restrictions undermine our civil liberties without enhancing our national security. Second, I will discuss how the Department of the Treasury's enforcement of these restrictions selectively and unfairly targets individuals for penalties that they do not deserve. Third, I will discuss how enforcement efforts are being stepped up at a time when the Department's resources are needed to fight terrorism. Lastly, I will discuss why the restrictions will remain in place unless and until Congress enacts the Bridges to the Cuban People Act of 2001 or similar legislation to terminate them.

I. THE CURRENT RESTRICTIONS ON TRAVEL TO CUBA UNDERMINE OUR CIVIL LIBERTIES WITHOUT ENHANCING OUR NATIONAL SECURITY

Travel to Cuba without a license—either to engage in non-tourist activities for which a license must be obtained from the Department of the Treasury's Office of Foreign Assets Control (OFAC),<sup>1</sup> or to engage in tourist activities for which no license is available<sup>2</sup>—constitutes a violation of the Cuban Assets Control Regulations<sup>3</sup> and the Trading with the Enemy Act of 1917.<sup>4</sup> Only travelers who are fully hosted while in Cuba and successfully avoid spending so much as a single penny of their own money on travel-related transactions, are exempt from these travel restrictions.<sup>5</sup> Each violation of the restrictions exposes the traveler to a criminal conviction punishable by a fine of up to \$100,000 and by imprisonment for a term of up to 10 years.<sup>6</sup> In addition, each violation exposes the traveler to a civil penalty, enforced by OFAC, of up to \$55,000.<sup>7</sup>

The severity of the restrictions on travel to Cuba, coupled with the draconian criminal and civil penalties that may be imposed upon their violation, interferes with, and effectively prevents, the exercise of two fundamental rights guaranteed by the United States Constitution.

First, the restrictions limit our freedom to travel, which is “a part of the ‘liberty’ of which [a] citizen cannot be deprived without the due process of law under the Fifth Amendment.”<sup>8</sup> The Supreme Court has explained that:

This freedom of movement is the very essence of our free society, setting us apart. Like the right of assembly and the right of association, it often makes all other rights meaningful—knowing, studying, arguing, exploring, conversing, observing and even thinking. Once the right to travel is curtailed, all other rights suffer, just as when curfew or home detention is placed on a person.<sup>9</sup>

Second, the restrictions limit our rights under the First Amendment to express our views, hear the speech of others, gather information, and associate with oth-

<sup>1</sup> See 31 C.F.R. § 5 15.560(a)(1)-(12) (authorizing travel to Cuba under tightly prescribed conditions).

<sup>2</sup> See Agricultural Rural Development, Food and Drug Administration, and Related Agencies Programs for Fiscal Year 2001, § 910(b), amending the Trade Sanctions Reform and Export Enhancement Act at 22 U.S.C. § 7209 (barring the licensing of travel to Cuba that does not fall within the categories of travel expressly authorized under 31 C.F.R. § 515.560(a)(1)-(12) and designating them as tourist activities).

<sup>3</sup> 31 C.F.R. Part 515.

<sup>4</sup> 50 U.S.C. Appendix §§ 1 *et seq.* The restrictions on travel to Cuba are also codified in the Cuban Democracy Act of 1982, 22 U.S.C. §§ 6001 *et seq.*, the Cuban Liberty and Democratic Solidarity Act of 1996 (Helms-Burton Act), 22 U.S.C. §§ 6021 *et seq.*, and the Trade Sanctions Reform and Export Enhancement Act, 22 U.S.C. § 7209.

<sup>5</sup> See 31 C.F.R. § 515.420.

<sup>6</sup> 31 C.F.R. § 500.701(a)(1).

<sup>7</sup> 31 C.F.R. § 500.701(a)(3).

<sup>8</sup> *Kent v. Dulles*, 357 U.S. 116, 125 (1958).

<sup>9</sup> *Aptheker v. Secretary of State*, 378 U.S. 500, 520 (1964) (Douglas, J., concurring).

ers—rights that are essential in a democratic society. As Justice William Douglas astutely observed:

The right to know, to converse with others, to consult with them, to observe social, physical, political and other phenomena abroad as well as at home gives meaning and substance to freedom of expression and freedom of the press.

Without those contacts First Amendment rights suffer.<sup>10</sup>

Government regulations that infringe upon fundamental rights will not be upheld unless they are necessary in order to achieve a compelling governmental objective and are narrowly tailored to accomplish that objective. In a suit filed just two months after the Cuban Missile Crisis of 1962, the Supreme Court was quick to uphold governmental restrictions on travel to Cuba, finding them justified by the “weightiest considerations of national security.”<sup>11</sup> Two decades later, in 1984, a more restrained Supreme Court—by a narrow margin of five votes to four—again upheld such restrictions upon accepting at face value the Department of State’s opinion that the political, economic, and military backing of Cuba by the Soviet Union and Cuba’s military activities in the Western Hemisphere continued to sustain the restrictions.<sup>12</sup>

The geopolitical landscape has changed significantly since the Supreme Court decided these two cases. The collapse of the Soviet bloc more than a decade ago marked the end of the Cold War and the halt of Soviet subsidies to Cuba. In the late 1990’s, the Department of Defense, the Central Intelligence Agency, the Department of State, and the National Security Agency finally acknowledged what had been obvious for quite some time—that the tiny island nation of Cuba does not pose a realistic threat to the national security of the United States or the Western hemisphere.<sup>13</sup>

And yet the Cuban Assets Control Regulations continue to infringe on the fundamental rights of Americans, even when our government can no longer establish that they are necessary in order to achieve a compelling governmental objective, much less that they are narrowly tailored to accomplish such an objective. These regulations illustrate a fatal flaw in the Trading with the Enemy Act. As four Justices of the Supreme Court pointed out, the Act has served as a “one-way ratchet to enhance greatly the President’s discretionary authority over foreign policy” and to permit the President to cling to that authority long after the national emergency that served as the basis for its grant has ended.<sup>14</sup>

## II. THE DEPARTMENT OF THE TREASURY’S ENFORCEMENT OF THE RESTRICTIONS ON TRAVEL TO CUBA SELECTIVELY AND UNFAIRLY TARGETS INDIVIDUALS FOR PENALTIES THAT THEY DO NOT DESERVE

In 1998, the Center for Constitutional Rights established a Cuba Travel Project in order to educate the public about the restrictions on travel to Cuba and to provide legal representation to individuals and organizations subject to OFAC enforcement actions under the Cuban Assets Control Regulations.<sup>15</sup> During the four years that the Cuba Travel Project has been in operation, the Center has advised thousands of individuals and dozens of organizations from all across the United States on the laws and regulations governing travel to Cuba. A bilingual pamphlet published by the Center, *Advice for Travelers to Cuba*, provides a user-friendly introduction to this arcane area of the law and is in wide circulation.

Currently, the Center represents more than 400 individuals who have been targeted for OFAC enforcement actions under the Cuban Assets Control Regulations. Each client has received from OFAC either a “Requirement to Furnish Information” demanding a written response to a set of questions about his or her travel activities and/or a “Pre-Penalty Notice” alleging that he or she traveled to Cuba in violation of the regulations. In the case of the more than 250 Center clients who have re-

<sup>10</sup> *Zemel v. Rusk*, 381 U.S. 1, 24 (1965) (Douglas, J., dissenting).

<sup>11</sup> *Zemel v. Rusk*, 381 U.S. at 16.

<sup>12</sup> *Regan v. Wald*, 468 U.S. 222, 243 (1984).

<sup>13</sup> See Defense Intelligence Agency, Central Intelligence Agency, and Department of State Bureau of Intelligence and Research, the National Security Agency, and the United States Southern Command Joint Intelligence Center, “The Cuban Threat to U.S. National Security,” November 18, 1997, available at <http://www.defenselink.mil/pubs/cubarpt.htm>; Dana Priest, “Cuba Poses ‘Negligible’ Threat, Report Says,” *The Washington Post*, May 7, 1998, at p.A8.

<sup>14</sup> *Regan v. Wald*, 468 U.S. at 245.

<sup>15</sup> On June 17, 2002, Matthew Scott replaced Anna Liza Gavieres as the Coordinator of the Center for Constitutional Rights’ Cuba Travel Project. The attorneys associated with the Cuba Travel Project currently include William Goodman, Michael Ratner, Shayana Kadidal, Michelle DePass, Robert Bloom, Anthony DiCaprio, Margie Rather, John Speyer, and myself.

ceived a Pre-Penalty Notice, OFAC has demanded civil penalties that generally range from \$7,500 to \$27,500 per person.

The Center's clients represent a cross-section of America at its very best. Included among their ranks are doctors, lawyers, educators from the elementary school level to the university level, students in high school, college and graduate school, journalists, writers, artists, dancers, film makers, urban planners, public health workers, social workers, law enforcement officers, civil servants, entrepreneurs, computer experts, and engineers. They range in age from their teens to their 80's, and they are spread across 35 states and the District of Columbia.

While their reasons for traveling to Cuba are varied, none have engaged in activities that would—at least under any fair and rational system of justice—be considered grounds for imposing the criminal and civil penalties called for in the Cuban Assets Control Regulations and the Trading with the Enemy Act. Some clients traveled in order to deliver food, medicine, and other forms of humanitarian aid to the Cubans, and to donate their time and professional services in Cuban hospitals and schools. Some clients traveled in order to visit their Cuban relatives, friends, and co-religionists. Some clients traveled in order to scatter the ashes of their loved ones and to visit grave sites of family members. Some clients traveled to return to the missionary churches and military stations on the island where, decades ago, they had been stationed. Some clients traveled in order to study the Spanish language, to learn about Cuba's history, geography, and people, and to write books and articles on Cuba. Some clients traveled in order to attend professional meetings, sporting events, tournaments, and cultural events. Some clients traveled in order to study Cuba's internationally acclaimed programs in public health, sustainable agriculture, and energy conservation. Some clients traveled in order to study its political system and to meet with its proponents and opponents. And some clients traveled in order to experience the beauty of the Cuban beaches and countryside, sail, and to swim, fish, scuba dive, bicycle, birdwatch, and tour the sights.

Despite their many differences, the Center's clients share in common a belief that ties of friendship between people living in countries whose governments are at odds can promote peace between their nations. They are also united in their desire to see for themselves what life is like in Cuba. They export an enthusiasm for all that is positive about life in United States and share with their fellow Americans the best of what Cuba has to offer.

The Center's clients represent only an infinitesimal fraction of the tens of thousands of Americans who have traveled to Cuba in violation of the travel restrictions.<sup>16</sup> However, the Center's clients represent a substantial percentage of the individuals against whom OFAC has brought enforcement actions.<sup>17</sup> Thus, the overwhelming majority of travelers who violate the travel restrictions are not known to OFAC; in the alternative, they are known to OFAC but OFAC has chosen not to pursue them. Ironically, those who honestly report their travel to Cuba to the Customs Service on their return to the United States are the ones who are most likely to become the subject of an OFAC enforcement action, while those who are seeking to evade detection nearly always succeed in their mission. In other words, OFAC enforcement is directed at the least culpable travelers—those who do not understand the travel restrictions and believe themselves to be in compliance with them, and those who are truthful.

Through its representation of these clients, the Center has developed a clear understanding of why so many Americans travel to Cuba without first obtaining a license to do so from OFAC. First, most Americans are not aware of, or else do not understand, the complex laws and regulations that govern such travel and, as a result, incorrectly believe their travel to be legal. The Cuban Assets Control Regulations are obscure and replete with provisions that are lacking in clarity. Moreover, the regulations cannot be reconciled with our freedom to travel, which is "a part of our heritage" and "basic in our scheme of values,"<sup>18</sup> and with our First Amendment rights to engage in the free exchange of ideas and to form our own opinions on mat-

<sup>16</sup> *The New York Times* has estimated that 40,000 to 50,000 Americans visited Cuba illegally in 2000. See Frank Bruni, "Bush Administration Showing Willingness to Enforce Law on Visiting Cuba," *The New York Times*, August 5, 2001. However, the United States-Cuba Trade and Economic Council has estimated that 176,000 U.S. citizens visited Cuba in 2000, of whom approximately 22,000 traveled in violation of the travel restrictions. See Kevin Sullivan, "Americans Defy Cuba Embargo," *The Washington Post*, October 13, 2001. The Council estimates that, of the remaining visitors, approximately 124,000 were Cuban Americans who are allowed one trip per year to visit close relatives in circumstances that demonstrate humanitarian need, and that approximately 30,000 made visits authorized by OFAC. *Id.*

<sup>17</sup> OFAC stated in September 2001 that it had a backlog of 357 hearing requests. See *infra* Note 25. Presumably this number is much higher today.

<sup>18</sup> *Kent v. Dulles*, 357 U.S. at 126.

ters of public concern. Indeed, travel to other socialist states, including the former Soviet Union, the People's Republic of China, Vietnam, and North Korea, has long been, and continues to be, permitted. Perhaps it is for these reasons that Americans are quick to believe advertisements falsely claiming that Americans may travel to Cuba lawfully as long as they pay for their trip in advance to a travel agency in a third country and spend no cash while in Cuba.

Second, Americans who are intent on visiting Cuba as tourists are left with no option but to violate the Cuban Assets Control Regulations and to expose themselves to the imposition of harsh criminal and civil penalties. OFAC is barred by statute from granting a license for travel in Cuba to engage in tourist activities.<sup>19</sup>

Third, some Americans have such a strong moral opposition to the embargo and that they travel to Cuba in deliberate violation of the travel restrictions as an act of civil disobedience. These individuals include the many hundreds of people who have joined caravans organized by Pastors for Peace that deliver humanitarian aide and medical supplies to Cuba.

Fourth, Americans who apply for a specific license to travel to Cuba in order to engage in one of the limited activities for which licenses may be granted under the Cuban Assets Control Regulations have consistently encountered roadblocks that have prevented them from obtaining a license on a timely basis. From all outward appearances, OFAC is engaged in a deliberate strategy of discouraging the filing of license applications, and of constructively denying the applications that are filed through agency inaction and delay. OFAC is notorious for incessantly demanding detailed information concerning travel itineraries and the bona fides of the organizations sponsoring trips and their travelers, and for sitting on this information once it is provided. OFAC has never been required to account for its licensing decisions to Congress, much less to the public, and the secrecy behind which it is permitted to operate allows for the introduction of bias and partiality into the decision-making process, and for its inconsistent, irrational, and unfair treatment of license applications.<sup>20</sup>

Particularly troubling are new guidelines for specific license applications for people-to-people educational exchanges. These guidelines go so far as to request "[a] full-time itinerary, broken down by half-day or smaller intervals, describing for each interval what the focus and nature of activities will be under the educational exchange program," and stating the "ratio of Cuban nationals to U.S. participants in each event."<sup>21</sup> To make matters worse, these guidelines impose a political litmus test by making a factor of consideration "[w]hether the predominant portion of the proposed activities will be with persons or entities that are not acting, directly or indirectly, for or on behalf of the Government of Cuba or its parastatal industries or enterprises."<sup>22</sup> In doing so, the guidelines contravene basic First Amendment principles. Also, as a practical matter, because the educational system in Cuba is state-run, they to impose limits the ability of travelers to meet with and learn from Cuban university professionals.

One victim of the new guidelines is Dr. John Gilderbloom, Executive Director of the Cuba Research and Education Programs and a professor of urban and public affairs at the University of Louisville.<sup>23</sup> On June 17, 2002, Dr. Gilderbloom was informed via telephone by two OFAC officials that his organization's application to renew its expired specific license for educational exchanges—exchanges in which American experts in architecture and planning could meet with and study from their Cuban counterparts—had been finally denied. Since 1997, trips run by the organization have been accredited by the prestigious American Institute of Architects and the American Planning Association for continuing professional education credits. The application had been filed 15 months ago, in March 2001, and Dr. Gilderbloom had worked and reworked it numerous times in an effort to meet the specifications of various OFAC officials. Even with the helpful intervention of Senator Mitch McConnell and Representative Ann Northup, the application was re-

<sup>19</sup>See *supra* Note 1. A number of the Center's elderly clients have spoken with great emotion of their determination to visit Cuba while they still retain the physical ability to endure such a trip and the mental ability to appreciate the experience. Some of these clients have ties to the island nation dating back to its pre-revolutionary days.

<sup>20</sup>See e.g., "OFAC Travel License Survey Responses, Summary Report," Fund for Reconciliation and Development (February 8, 2002) (submitted to the Subcommittee on Treasury and General Government of the Senate Appropriations Committee on February 11, 2002).

<sup>21</sup>Department of the Treasury Office of Foreign Assets Control "Guidelines for License Applications: Specific Licenses for Cuba Travel Transactions Related to Educational Exchanges Not Involving Academic Study Pursuant to a Degree Program."

<sup>22</sup>*Id.*

<sup>23</sup>This discussion is based on the author's telephone conversations with Prof. Gilderbloom on June 18, 2002.



jected by OFAC officials on numerous occasions prior to being finally denied on June 17th. Dr. Gilderbloom was informed on June 17th that his organization's application failed to meet the new guidelines because the proposed trips did not call for sufficient contact with Cuban nationals not affiliated with the Cuban government, and because the inclusion of architectural tours and museum trips made the program "too much of a tourist program" and allowed for "too much self-fulfillment."

To complicate matters further, OFAC routinely fails to process applications in a timely manner, a practice that is unacceptable given the substantial commitments of time and money required of travelers in advance of an international trip. Those familiar with the application process have learned that they must conduct a steady and persistent campaign of follow-up telephone calls and faxes to OFAC in order to stand even a chance of obtaining a license in advance of a trip's scheduled departure date. Furthermore, those applicants who are fortunate enough to receive specific licenses are saddled with burdensome documentation requirements.

Fourth, the few Americans who qualify for travel on a general license, or whose travel is fully hosted, are not required to apply for a license and, as a result, lack documentation from OFAC establishing that their travel to Cuba was lawful. On their return to the United States, these individuals are frequently subjected to harassment, detention, and confiscation of goods purchased in Cuba by untrained Customs officials who rigidly adhere to the false belief that travel to Cuba is illegal unless the traveler is able to produce a copy of a specific license from OFAC authorizing the travel. Some of these individuals have even been subjected by OFAC to enforcement actions.

Furthermore, the Center's clients provide a firm basis for understanding the hardships that travelers to Cuba endure—first at the hands of Customs officials, and later at the hands of OFAC—when our government suspects them of violating the Cuban Assets Control Regulations.

With disturbing frequency, the Center's clients have reported that Customs agents were verbally abusive to them upon their return from Cuba. Customs agents have screamed directly into their faces, accused them of being criminals, interrogated them in a belligerent and intimidating manner, dumped the contents of their suitcases and bags onto the floor, detained them for hours on end, and coerced them into making oral and written statements about their trips by threatening to take away their passports, keep them in detention, and not allow them to board a plane until such a statement was provided. Travelers' requests to speak to their attorneys have been ignored. These detentions have caused travelers to miss their connecting flights, sometimes forcing them to spend the night at the airport waiting for another flight.

The Customs Service appears to have initiated a practice of stationing inspectors in Canadian airports to surveil Americans as they board and deplane flights between Cuba and Canada. A client of the Center was disturbed to receive a Requirement to Furnish Information last year that advised her that she had been observed by Customs inspectors when her Cubana Airlines flight arrived in Montreal. To its credit, the Canadian government has voiced concerns that the United States may be acting in violation of the 1974 Pre-Clearance Treaty between the United States and Canada.<sup>24</sup>

The Customs Service also appears to be placing the names of a select group of persons who are suspected of traveling to Cuba in violation of the Cuban Assets Control Regulations on a watch list used by the agency to screen for travelers who are of concern to law enforcement agencies. Many of the Center's clients have complained that after having been stopped by Customs agents on their return from Cuba, they have been subjected to heightened inspection procedures at airports whenever they travel internationally.

Upon their return from Cuba, travelers who have been identified by Customs as having traveled in violation of the regulations receive a Pre-Penalty Notice from OFAC assessing a civil penalty of approximately \$7,500 when a single unauthorized trip is alleged, \$17,500 when two unauthorized trips are alleged, and \$27,500 when three unauthorized trips are alleged. Alarming, a family of four that travels to Cuba together can expect a civil penalty of \$30,000. In addition, starting in November 2001, the Center has seen Pre-Penalty Notices that demand civil penalties from travelers—not for traveling in violation of the Cuban Assets Control Regulations—but for failing to respond to a Requirement to Furnish Information form demanding details about their trip. In November 2001, OFAC sent a Pre-Penalty Notice demanding a \$1,500 fine for the late submission a Requirement to Furnish Information form. And in January 2002, OFAC sent at least two Pre-Penalty Notices de-

<sup>24</sup> Glen McGregor and Mike Trickey, "Canada Opposes U.S. Crackdown on Cuba Visitors," *Ottawa Citizen*, September 1, 2001.

manding \$10,000 for the failure to submit a completed Requirement to Furnish Information form. In one case, the Pre-Penalty Notice did not even allege that the traveler had violated the Cuban Assets Control Regulations.

The penalties demanded by OFAC are plainly excessive and unreasonable. The penalties are set without consideration of whether the traveler reasonably understood his or her travel to be lawful, how long the traveler stayed in Cuba, the nature of the traveler's activities while in Cuba, and whether the traveler's activities fell within the parameters of activities that are licensable. Moreover, OFAC sets penalties without consideration of the purported purpose of the travel restrictions—the amount of United States currency that the traveler has introduced into the Cuban economy.

### III. MOREOVER, THESE ENFORCEMENT EFFORTS ARE BEING STEPPED UP AT A TIME WHEN THE DEPARTMENT'S RESOURCES ARE NEEDED TO FIGHT TERRORISM

Between January 2001 and the present, the number of individuals who have received Requirement to Furnish Information forms and Pre-Penalty Notices from OFAC has skyrocketed. Not until July 2001, following widespread complaints of a Bush Administration crackdown on Americans traveling to Cuba, did a spokesperson for the Department of the Treasury finally acknowledge that “a higher incidence of penalty cases are being issued at this time.”<sup>25</sup> This increase, however, was attributed by the spokesperson “solely to the normal ebb and flow of OFAC's workload rather than a shift in policy.”<sup>26</sup> Soon thereafter, the Department reported that while OFAC had issued only 188 enforcement letters in all of 2000, it had issued 517 such letters between January and July of 2001.<sup>27</sup>

The increase in OFAC enforcement activity caused the Center for Constitutional Rights' Cuba Travel Project to be flooded with new requests for legal representation. Between January and June of 2001, the Center accepted 162 new cases for representation—far more than the 137 cases it accepted in all of 2000, the 55 cases that it accepted in 1999, or the 49 cases that it accepted in 1998. When caseload of the Cuba Travel Project exceeded 400 at the end of June, 2001, the project was forced to turn away new cases for the first time since it opened its doors in 1998. In order to fill the void caused by its inability to accept new cases, the Center, in conjunction with the National Lawyers Guild, formed a “Wall of Lawyers” project. Lawyers from all across the nation have agreed to provide legal representation to individuals accused by OFAC of violating the Cuban Assets Control Regulations.

For the first few months following the terrorist attacks of September 11, 2001, OFAC slowed down its enforcement of the restrictions on travel to Cuba. However, the agency has apparently decided to make up for lost time. In the first five months of 2002, OFAC issued 35 new Pre-Penalty Notices to existing clients of the Center. This is an unusually high number of Pre-Penalty Notices for the Center to receive given the fact that it closed intake in June 2001, and it is a strong indication that OFAC is once again stepping up its enforcement of the Cuban Assets Control Regulations. In addition, the Center was recently informed by OFAC officials that Administrative Law Judges will soon be conducting the hearings that have been requested by individuals who have been charged with violating the Cuban Assets Control Regulations. During the ten years that the Cuba Democracy Act of 1992 has provided such individuals with the statutory right to an Administrative Law Judge hearing, the Department of the Treasury has not had a single judge on staff.<sup>28</sup> The backlog of requested hearings is likely to number in the hundreds.<sup>29</sup> OFAC's stepped up enforcement of the Cuban Assets Control Regulations at a time when it has been charged with the responsibility of tracing and blocking the assets of the terrorists responsible for the attacks of September 11 is profoundly troubling.<sup>30</sup>

### IV. THE RESTRICTIONS ON TRAVEL TO CUBA WILL REMAIN IN PLACE UNLESS AND UNTIL CONGRESS ENACTS THE BRIDGES TO THE CUBAN PEOPLE ACT OF 2001 OR SIMILAR LEGISLATION TO TERMINATE THEM

Neither the executive branch nor the judiciary is likely to bring about an end to current restrictions on travel to Cuba. Now that Cold War tensions have been defused and Cuba no longer presents a credible military threat to the United States,

<sup>25</sup> Rafael Lorente, “U.S. Tightens Cuban Embargo,” *The Washington Times*, July 5, 2001.

<sup>26</sup> *Ibid.*

<sup>27</sup> See Sullivan, “Americans Defy Cuba Embargo,” *supra* note 16.

<sup>28</sup> Ken Guggenheim, “Lengthy Backlog of Cuba Travel Cases,” AP Online, December 16, 2001.

<sup>29</sup> *Id.*

<sup>30</sup> Executive Order 13224, “Blocking Property and Prohibiting Transactions with Persons who Commit, Threaten to Commit, or Support Terrorism” (September 24, 2001).

it is possible that the courts will no longer be willing to accept at face value the government's assertion that the travel restrictions are justified on national security grounds. However, the judiciary has a long tradition of deferring to Congress and the Executive on matters of foreign policy, particularly where—as here—the two political branches are in alignment with one another. As recently as 1996, the Court of Appeals for the Ninth Circuit refused to look behind the government proffer in support of the travel restrictions.<sup>31</sup>

And even if the executive branch were so inclined, it has been barred since October 28, 2000, from granting licenses for travel to Cuba for any activities other than the limited activities for which licenses are currently permitted under the Cuban Assets Control Regulations. In essence, the 2000 amendment to the Trade Sanctions Reform and Export Enhancement Act has codified the travel restrictions set forth in the Cuban Assets Control Regulations into law and has barred new categories of travel activities from being licensed.<sup>32</sup>

Thus, as a practical matter, the restrictions on travel to Cuba will not be lifted unless and until Congress enacts the Bridges to the Cuban People Act or similar legislation to terminate them. Such legislation should explicitly repeal all existing statutory authorization for the restrictions, including the Helms-Burton Act, 22 U.S.C. § 6032(h), and the Trade Sanctions Reform and Export Enhancement Act of 2000, § 910. The Bridges to the Cuban People Act repeals these two provisions.

In addition, such legislation should provide for the dismissal of all pending OFAC enforcement proceedings under the Cuban Assets Control Regulations. Individuals subject to these proceedings have already endured the anxiety and the taint of having unresolved charges of wrong-doing filed against them without the ability to have their requests for an Administrative Law Judge hearing fulfilled. These charges have been pending for upwards of 10 years due to the Department of the Treasury's failure to comply with its obligations under the Cuban Democracy Act of 1992. The dismissal of these cases would also serve the public interest, as it would permit OFAC to shift its precious resources away from Cuba—which is not a danger to the United States—and direct its resources toward the prevention of a future terrorist attack.

Legislation that simply cuts off funding to OFAC for enforcement of the travel restrictions without at the same time legalizing travel to Cuba will not resolve the lack of accountability that is inherent to any licensing permit scheme. Such a half-hearted measure could inadvertently make it impossible for people wishing to travel to Cuba to obtain specific licenses for such travel. And in the event that people chose to travel without a license, their travel could form the basis of a future OFAC enforcement action should funding to OFAC for enforcement be restored at some future date.

This year marks the 40th anniversary of the Cuban Missile Crisis. Congress should seize the moment and take a critical first step towards mending the Cold War-era fences that separate us from one of our closest neighbors. The restrictions on travel to Cuba have long outlived their usefulness. Moreover, their senselessness, and the arbitrary and unfair manner in which they have been applied, only serve to breed contempt and disrespect for the laws of this nation. Their repeal by legislation is long overdue.

Thank you once again for providing the Center for Constitutional Rights with this opportunity to address the Subcommittee on the need for legislation ending governmental restrictions on travel to Cuba.

<sup>31</sup> See *Freedom to Travel Campaign v. Newcomb*, 83 F.3d 1431 (9th Cir. 1996).

<sup>32</sup> See *supra* Note 1.

Senator DODD. Mr. Colás.

**STATEMENT OF RAMÓN HUMBERTO COLÁS, CO-FOUNDER,  
CUBAN INDEPENDENT LIBRARIES MOVEMENT, MIAMI, FL**

Mr. COLÁS. Gracias, Senor Presidente para la oportunidad—  
Senator DODD. Yo no soy El Presidente, pero gracias para las palabras.

[Whereupon a conversation occurred in Spanish.]

Mr. COLÁS [by translator]. Thank you, Mr. Chairman. I appreciate this opportunity to appear before you and the committee to discuss U.S. policy toward Cuba.

The United States embargo of Cuba is at the center of much political debate in various U.S. institutions. The effort to lift it appears to advance in equal measure to that which seeks to maintain it.

Those who argue for a lifting of the embargo advance the following arguments: That it's not practical, that it has not changed anything in Cuba since its application, and that the Cuban people are suffering the worst consequences. Those against lifting of the embargo maintain that it is a policy tool used to pressure the Cuban regime and should be applied strongly.

I count myself among those who believe that lifting the embargo would not benefit the Cuban people. To lift this measure would breathe new life into the Castro regime and would give it access to credit and finances that would only be used to further repress my compatriots on the island.

No one can ensure that lifting the embargo would encourage a non-violent transition in Cuba. Fidel Castro is determined to remain in power at all costs and needs money in order to further his ends. To lift the embargo would only help to perpetuate Castro's system.

The control that the Havana regime exercises over the Cuban people allows it to portray the United States as the root of all of Cuba's misery. This proposition is false. It's the great hypocrisy of a system whose failures are always someone else's fault.

In this case, U.S. policy toward Cuba is used as a pretext. Castro seeks to depict those who favor maintaining economic sanctions against his regime as heartless and as virtual criminals.

One of the accomplishments of the recent visit to Cuba by President Jimmy Carter was that the former President explained, in the presence of the Cuban dictator, that the embargo is not the reason for the lack of food and medicine on the island.

Those who favor the embargo—those who favor lifting the embargo have not looked at the interior of Cuba. They do not realize that a dictatorship exists that imprisons those who oppose it. They ignore the fact that human rights are violated, that Cubans cannot participate in the economic life of their country, that only one political party exists, that there is no freedom of association, that travel within the national territory is restricted and that citizens must obtain the regime's permission to travel abroad.

Intellectual freedom is violated. Books are banned. Education is subsumed by ideology. Worst of all, there is no liberty.

To what extent is it moral to favor a regime that treats its citizens as non-persons and elevates foreign nationals above the native-born. United States citizens can travel to whatever part of the world they choose. But this nation should not taint the honor of its democracy by offering support to a regime that does not allow its people to be free.

Why was the South African regime isolated when it maintained its policy of apartheid against the African population. But now there are those who believe we should not respond similarly in the case of Cuba when faced with comparable violations of human rights.

In reality, there is only one true embargo and that is the embargo that Fidel Castro maintains against the Cuban people. His re-

strictions are the ones that should be lifted, against which actions should be taken.

What matters to Cubans is not the U.S. embargo. What matters to my compatriots is their lack of freedom. Oswaldo Paya Sardinias, leader of the Varela Project, has said that the lack of freedom in Cuba is the main concern and that we should be asking Cubans about their rights rather than about the policies of the foreign government.

Policies that put pressure on the Cuban regime should not be discarded. They are effective because they allow dissidents to gain vital spaces and they encourage the nations of the world to look critically upon the situation in Cuba.

The results achieved this year in Geneva, where Latin American nations were united in voting against Cuba, demonstrated that with pressure, the destiny of a people can be defined. Every day there are more people that believe that Cuba could advance toward democracy if willingness existed on Castro's part.

A lifting of the embargo would allow Castro and his regime to ignore world opinion and give him the opportunity to regain his equilibrium. He would continue to endanger peace in the region, and above all else, he would not permit his people to be free.

There exists a myth that lifting the embargo would facilitate people-to-people contact and that this would somehow create a new awareness among the people. No one can ensure this result in a country where the secret police monitors every tourist and where Cubans are sanctioned for making contact with foreigners.

People-to-people contact can best be encouraged by providing aid to Cuba's emerging civil society and to the different opposition groups. Observe, for example, how Project Varela defied the authority of the regime and expressed the desire of thousands of Cubans to change the system.

Can anyone guarantee that with a lifting of the embargo Cubans will have access to the Internet and to all types of information, that they will be allowed to participate freely in the economic life of their country, and that political spaces will be opened up.

Can anyone guarantee that food and medicine will be put in people's hands, that the right to private property will be respected, and that my compatriots will be able to live their lives as they see fit.

No one can guarantee this. In that case, let us simplify things. Let us look objectively at reality and let us try to change without exacting a new toll of sacrifice from the Cuban people.

Please permit me to cite two examples. First, the Cuban Government spends several million dollars to buy 500 tons of frozen chicken from the United States. No one in Cuba has seen that chicken on his table, yet tourists are feasting on it in the hotels where my compatriots are forbidden from entering. This is what happened to every form of aid that has passed through Castro's hands.

Permit me a second example. This involves the destruction left behind in Cuba last year by Hurricane Michelle. The United States offered to provide food, medicine and rebuilding materials for homes, and asked that experts be allowed to visit the island to assess the damage and estimate the amount of aid needed.

The Havana regime refused to accept any such aid because it knew that these resources would not be placed under its control. In addition, it could not allow its enemy of 40 years to help the Cuban people because this would deprive it of the excuse that the United States is the cause of all of Cuba's misery.

Mr. Chairman, what Cuba needs most is freedom and respect for fundamental rights. Once these essential hurdles are crossed, everything else will be up for discussion. I ask the members of the Senate Foreign Relations Committee to support a policy of political and economic pressure on the Havana regime that will only be modified when changes take place in Cuba that allow all Cubans to live in freedom.

Senator DODD. Thank you. I let you go a little longer there because the translation makes it a little more difficult. But I thank both of you for being here.

Very quickly, Ms. Chang, what changes if any should be made to existing travel regulations and if enacted in law would section 201 of the bill remove impediments to U.S. persons' ability to travel to Cuba in your opinion.

Ms. CHANG. I think section 201 is very well thought out. It repeals the two statutes that lock in place the current restrictions on travel to Cuba. We now have 12 categories in which travel can be licensed. And that is because of Helms-Burton. By removing and repealing those provisions, we allow free travel to Cuba.

Senator DODD. OK. Now I asked you earlier how long. You mentioned the 400 people. I mentioned it in my testimony, you mentioned that since 1998. Is there a distinction that you can identify between the previous administration and this administration and the implementation of these travel restrictions or has it been basically continuing?

Ms. CHANG. A very dramatic change has taken place. Early in 2001 our office noticed that our intake was skyrocketing. We had so many calls for new assistance we had to close down our intake.

And of course the Bush administration acknowledged that it has increased enforcement. Since September 11 serious questions have been raised as to why we are expending resources going after 75-year-old women who go on bike tours to Cuba innocently thinking that they are in compliance with American law.

Senator DODD. Well, if we are going to work at this, I think we may get some changes. And I appreciate your support.

And Mr. Colás, I appreciate your testimony here and appreciate your point of view. Do you want to translate while I am talking? If I do it in Spanish, then I am going to lose my stenographer here.

I found it most interesting, I had similar conversations with the human rights community and the dissident community within Cuba. I noticed that former President Carter had a similar response when dealing with the dissident community in Cuba.

They bring a very different set of reactions to at least a partial lifting of the embargo. I do not think any of them endorse, maybe some do, a full lifting. But certainly it was the consensus in the dissident community that the continuation of the embargo has not worked.

Now, these are the Cubans in Cuba. These are the dissidents that have not left but they are in the country who are recom-

mending a different set of policies than what you are recommending, unless you have different information.

But my information is there are different points of view on dissidents and human rights activists in Cuba versus the dissident community outside of Cuba, if you will.

Mr. COLÁS. Mr. Chairman, I've been out of Cuba 22 weeks. I speak every week with folks in Cuba. Jimmy Carter met with 23 opposition members in Cuba, 23 of whom I know and with whom I have strong bonds of friendship. But they are not the representatives of the entire opposition in Cuba which is much more than 23.

In addition to those 23 people, there are some who do not share their point of view that the embargo should not be lifted.

Senator DODD. They didn't say that. I do not want to put words in their mouth. None of them I am aware of were of the view that the embargo ought to be completely lifted, maybe there were one or two. But according to President Carter when I talked to him—

Mr. COLÁS. At least Argo Sanchez I believe is the one who said that the embargo should be entirely lifted.

Senator DODD. But the entirety of them believe that at least a part of the embargo ought to be lifted and travel restrictions ought to be lifted.

Mr. COLÁS. I respect that opinion. I would have to say that there has been a broadening in recent years of the number of opposition members, including many who live outside of Havana. And unfortunately when foreign visitors come to Cuba, they tend to meet with the same group of people.

And the points of view I, would say the points of view of people in the provinces that this broader opposition movement is rarely if ever considered by these foreign visitors.

Senator DODD. Let me ask you this, if I can, Mr. Colás. Is it your testimony here then today that those groups that President Carter met with do not represent the general views of the dissident community in Cuba, that it was a false impression he received by the dissident community; what they had to say was not representative of what the majority of Cuban dissidents feel?

Mr. COLÁS. No. No. That is not my testimony.

Senator DODD. I am sorry. What did he say?

Mr. COLÁS. No. That is not my testimony. But I maintain that the opposition in Cuba is more than that group of people.

Senator DODD. I know that. No one is arguing it is more than 23 people. But do they represent what the dissident community feel, the larger community. Is that an accurate representation or are you suggesting that it is a false representation?

Mr. COLÁS. No. No. No. It was the representation of the points of view of the opposition groups that were present, but not of all opposition groups on the island.

The 30th of November Party is one of the opposition groups that has one of the broadest bases of support. And yet it was not represented at the Carter meetings. The Cuban Reflection Movement is the broadest based movement in Central Cuba also was not represented at the Carter meetings.

The Pedro Luis Boitel Movement also was not present at the Carter meetings.

Senator DODD. And your view is those groups have a very different point of view than the groups with whom President Carter met?

Mr. COLÁS. Yes, it is. I would just like to also stress that Oswaldo Paya Sardinas expressed the point of view that what is important for Cubans is not the embargo but the lack of freedom for Cuba and that that is truly the first priority.

Senator DODD. Thank you very much. I thank all of our witnesses today for being here. We will leave the record open for members who would like to raise some additional questions.

I find your testimony helpful obviously as we try and examine these policies and what may work. I would appreciate any further comment about the proposed legislation that we have introduced.

We have 26 other co-sponsors in the Senate, a bipartisan group, and look forward to moving the legislation on to the floor of the Senate. With that, I thank all of you for being here. And this meeting will stand adjourned.

[Whereupon, at 5:18 p.m., the committee adjourned, to reconvene subject to the call of the Chair.]

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#### ADDITIONAL STATEMENT SUBMITTED FOR THE RECORD

##### PREPARED STATEMENT OF SENATOR RUSSELL D. FEINGOLD

I am pleased that the Foreign Relations Committee is considering the important issue of our relations with the people of Cuba. I have long expressed serious reservations over the dismal human rights record of the Castro regime, and I have few illusions about the intentions of the Cuban government. As a leading voice on human rights, the United States must not minimize the abuses of that regime, nor should we abandon our efforts to promote democratic reforms in Cuba. The recent visit of President Carter to Cuba, along with the surprising success of the Varela Project in promoting a more open consideration of democratic reforms in the country, may offer the first glimpse of a democratic future for the island. The United States must continue to promote this peaceful process of liberalization and change in Cuba.

At the same time, we must also recognize that our embargo has failed to achieve its objectives, most notably by failing to promote a more meaningful improvement in the human rights landscape in the country. Instead, it has provided the government with a pliable excuse for its human rights failings, and for every other hardship in the economic, social and cultural life of the country. At this point, taking the best interests of the Cuban people into account, we must begin to ease the embargo, especially with respect to food, medicine and educational opportunities that would improve the health of the Cuban people.

Let me be clear. I do not support a complete normalization of relations with Cuba. I believe that limited sanctions must be maintained to provide ongoing leverage and to help us achieve our broader human rights objectives. But the near total embargo that now exists has not been effective. Recognizing this lack of progress, I believe it is time to take groundbreaking steps to ease aspects of the embargo, but not the entire embargo, and that such a gesture could dramatically increase our leverage with both the people and the government of Cuba. Indeed, by demonstrating our good intentions and our willingness to consider new approaches and new relationships with Cuba, we would ultimately be in a better position to demand, and perhaps achieve, improvements on a range of human rights issues in exchange for ongoing progress in our economic relationship. This initial overture from the United States is needed to launch such a dialogue, and to diminish Castro's longstanding excuse for the country's hardships.

I believe the liberalizing steps that are proposed in the Bridges to the Cuban People Act of 2001 strike a responsible balance in easing sanctions, while maintaining sufficient leverage to promote future human rights reforms. I was pleased to co-sponsor the bill last summer, and I am equally pleased that the Subcommittee on Western Hemisphere is taking a closer look at it today. The world has changed in



many ways since the Cuban embargo was first adopted. It is time to take a compassionate look at its effectiveness, and to consider options for easing the embargo that would increase our leverage with the Cuban government and improve the health and well-being of the Cuban people.

